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Executive Orders

EXECUTIVE ORDER BJ 15-03

Executive Branch—Expenditure Reduction

WHEREAS, pursuant to R.S. 39:75(A)(1), the Division of Administration is directed to submit a monthly budget status report to the Joint Legislative Committee on the Budget (hereafter "the Committee") indicating the balance of the budget for the State General Fund and dedicated funds by comparing the official forecast for these funds to the total authorized appropriations from each fund; once approved by the Committee, the most recent budget status report becomes the official budget status of the State;

WHEREAS, if the most recently approved budget status report indicates that the total appropriation from any fund will exceed the official forecast for that fund, R.S. 39:75(B) requires the Committee to immediately notify the Governor that a projected deficit exists for that fund;

WHEREAS, on February 20, 2015, the Committee notified the Governor that it approved a budget status report at its February 20, 2015, meeting, indicating that a projected deficit of One Hundred Three Million Five Hundred Thousand Dollars (\$103,500,000) exists in the State General Fund for Fiscal Year 2014-2015, based mainly on the revised official forecast of revenue available for appropriation adopted by the Revenue Estimating Conference on January 26, 2015, compared to total appropriations;

WHEREAS, once notified that a projected deficit exists, pursuant to Article VII, Section 10, of the Constitution of Louisiana and R.S. 39:75(C)(1)(a), the Governor has interim budget balancing powers to adjust the budget, including the authority to reduce appropriations for the executive branch of government for any program that is appropriated from a fund that is in a deficit posture, not exceeding three percent (3%) in the aggregate of the total appropriations for each budget unit for the fiscal year, and if the Governor does not make necessary adjustments in the appropriations to eliminate the projected deficit within thirty (30) days of the determination of the projected deficit in a fund, R.S. 39:75(D) mandates that the Governor call a special session of the Louisiana Legislature for that purpose;

WHEREAS, the State General Fund reductions in Executive Order BJ 2014-18 as authorized by R.S. 39:75(C)(1)(a), exceed in the aggregate seven-tenths of one percent of the total of State General Fund allocations or appropriations of \$61,304,260, I am further exercising my unilateral interim budget balancing powers to reduce the projected deficit by \$67,066,176;

WHEREAS, after utilizing that authority, \$36,433,824 remains of the projected deficit which must be eliminated, therefore I direct the Commissioner of Administration to present to the Committee for its approval a plan to eliminate the remaining amount of the projected deficit pursuant to R. S. 39:75(C)(2);

WHEREAS, this Executive Order and the plan to be submitted to the Committee may utilize all or a portion of

the General Fund dollar savings objective specified in Executive Order BJ 2014-1 and Executive Order BJ 2014-16.

NOW THEREFORE, I, Bobby Jindal, Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: The following departments, agencies, and/or budget units (hereafter "Unit" and/or "Units") of the executive branch of the State of Louisiana, as described in and/or funded by appropriations through Acts 15, 25, and 45 of the 2014 Regular Session of the Louisiana Legislature (hereafter "the Acts"), shall reduce expenditure of funds appropriated to the Unit from the State General Fund by the Acts, in the amounts shown below:

Act 15-General Operating Appropriations Act		
Schedule 01-Executive Department State General Fund		
01-100	Executive Office	\$ 10,000
01-102	Office of the State Inspector General	\$ 32,393
01-107	Division of Administration	\$ 728,000
01-112	Department of Military Affairs	\$ 1,394,617
Schedule 04-Elected Officials		
04-139	Secretary of State	\$ 931,593
04-146	Lieutenant Governor	\$ 74,143
04-160	Agriculture and Forestry	\$ 1,277,668
Schedule 06-Culture, Recreation and Tourism		
06-261	Office of the Secretary	\$ 95,570
06-262	Office of the State Library	\$ 234,506
06-263	Office of State Museum	\$ 212,486
06-264	Office of State Parks	\$ 849,712
06-265	Office of Cultural Development	\$ 105,867
06-267	Office of Tourism	\$ 47,000
Schedule 08-Corrections Services		
08A-400	Corrections Administration	\$ 99,625
08A-413	Elayn Hunt Correctional Center	\$ 60,558
08A-414	David Wade Correctional Center	\$ 896,033
Schedule 08-Youth Services		
08C-403	Office of Juvenile Justice	\$ 1,528,162
Schedule 09-Health and Hospitals		
09-300	Jefferson Parish Human Services Authority	\$ 607,189
09-301	Florida Parishes Human Services Authority	\$ 322,710
09-302	Capital Area Human Services District	\$ 304,482
09-304	Metropolitan Human Services District	\$ 872,901
09-305	Medical Vendor Administration	\$ 2,286,558
09-306	Medical Vendor Payments	\$ 42,925,118
09-307	Office of the Secretary	\$ 434,859
09-309	South Central Louisiana Human Services Authority	\$ 688,869
09-310	Northeast Delta Human Services Authority	\$ 420,855
09-320	Office of Aging and Adult Services	\$ 35,000
09-324	Louisiana Emergency Response Network	\$ 43,320
09-325	Acadiana Area Human Services District	\$ 543,191
09-326	Office of Public Health	\$ 1,705,122
09-330	Office of Behavioral Health	\$ 186,741
09-340	Office of Citizens with Developmental Disabilities	\$ 35,735
09-375	Imperial Calcasieu Human Services Authority	\$ 369,921
09-376	Central Louisiana Human Services Authority	\$ 495,541
09-377	Northwest Louisiana Human Services District	\$ 363,913

EXECUTIVE ORDER BJ 15-04**Offender Labor**

Act 15-General Operating Appropriations Act		
Schedule 10-Department of Children and Family Services		
10-360	Office of Children and Family Services	\$ 146,932
Schedule 19-Education		
19D-678	State Activities	\$ 280,818
19D-681	Subgrantee Assistance	\$ 468,468
19D-682	Recovery School District	\$ 150,000
Schedule 20-Other Requirements		
20-966	Supplemental Pay to Law Enforcement Personnel	\$ 3,000,000
20-977	DOA – Debt Service and Maintenance	\$ 1,800,000

SECTION 2:

A. No later than February 27, 2015, the head of each Unit listed in Section 1 of this Order shall submit to the Commissioner of Administration (hereafter "Commissioner") a mid-year budget reduction plan, on the BA-7 form and questionnaire, which reflects the Unit's proposed allocation of the expenditure reduction ordered in Section 1 of this Order (hereafter "mid-year budget reduction plan"), and a description of the methodology used to formulate the mid-year budget reduction plan.

B. In the event that positions of employment will be affected by the mid-year budget reduction, these positions should be included in your mid-year budget reduction plan.

C. No Unit shall implement the expenditure reduction mandated by Section 1 of this Order without the Commissioner's prior written approval of the Unit's mid-year budget reduction plan.

D. After the Commissioner has given approval of a Unit's mid-year budget reduction plan, any change to the mid-year budget reduction plan requires prior written approval from the commissioner.

SECTION 3: The Commissioner is authorized to develop additional guidelines as necessary to facilitate the administration of this Order.

SECTION 4: All departments, commissions, boards, offices, entities, agencies, and officers of the State of Louisiana, or any political subdivision thereof, are authorized and directed to cooperate in the implementation of the provisions of this Order.

SECTION 5: This Order is effective upon signature and shall remain in effect through June 30, 2015, unless amended, modified, terminated, or rescinded prior to that date.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 20th day of February, 2015.

Bobby Jindal
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1503#052

WHEREAS, during the 1988 Regular Session of the Louisiana Legislature, Act No. 933 was enacted relative to correctional facilities offender labor;

WHEREAS, as amended, Act No. 933, among other things, authorizes the governor to use offender labor in certain projects or maintenance or repair work; and

WHEREAS, the Act further provides that the governor, upon determining that it is appropriate and in furtherance of the rehabilitation and training of offenders, may, by executive order, authorize the use of offenders of a penal or correctional facility owned by the State of Louisiana for necessary labor in connection with a particular project.

NOW, THEREFORE I, BOBBY JINDAL, Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: In furtherance of goals of the State of Louisiana of supporting positive offender welfare, rehabilitating offenders, reducing recidivism, and reintegrating offenders into society, offender labor is hereby authorized for the construction of a Bible College at the Louisiana State Penitentiary, Angola, Louisiana.

SECTION 2: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 27th day of February, 2015.

Bobby Jindal
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1503#008

Emergency Rules

DECLARATION OF EMERGENCY

**Office of the Governor
Division of Administration
Office of State Procurement**

Procurement—Right to Protest (LAC 34:V.2545)

The Division of Administration, Office of State Procurement, has exercised the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, to adopt LAC 34:V.2545.A.4 under the authority of R.S. 39:1581. This action is taken to ensure the continuity of the right to protest and to appeal requests for proposals and contract awards in regard to professional, personal, consulting and social services contracts after the effective date of Act 864 of 2014.

Said Act combined *Revised Statutes* title 39, chapter 16 (Professional, Personal, Consulting, and Social Services Procurement) into *Revised Statutes* title 39, chapter 17 (Louisiana Procurement Code) and became effective on January 1, 2015. This Emergency Rule will clarify that protests arising under the request for proposals provisions for professional, personal, consulting, social services, and energy efficiency contracts are governed by RS 39:1671, 1681, 1683, 1691, and 1692, as are all other protests and appeals under *Revised Statutes* title 39, chapter 17. This Emergency Rule shall be effective as of March 4, 2015, pursuant to the provisions of the Administrative Procedure Act (R.S. 49:950) and shall remain in effect for the maximum period allowed by said act (120 days), or adoption of a permanent Rule under the same LAC Chapter, whichever occurs first.

Title 34

GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY CONTROL

Part V. Procurement

Chapter 25. Procurement of Professional, Personal, Consulting, Social Services, and Energy Efficiency Contracts

Subchapter B. Contracts Let Via a Request for Proposals Process

§2545. Request for Proposals [Formerly LAC 34:V.145]

A. ...

1. - 3. Repealed.

4. Right to Protest. Any person who is aggrieved in connection with the request for proposal or award, including a proposal or award for professional, personal, consulting or social services, may protest and appeal pursuant to the provisions of R.S. 39: 1671, 1681, 1683, 1691, and 1692. This Emergency Rule shall apply to any request for proposal issued after its effective date and any subsequent award arising therefrom.

5. - 5.c. Repealed.

6. - 7.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Contractual Review, LR 4:495 (December 1978), amended LR 7:180 (April 1981), LR 8:594 (November 1982), LR 10:459 (June 1984), LR 11:1072 (November 1985), repromulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 40:2567 (December 2014), amended LR 40:2545 (December 2014), amended by the by the Office of the Governor, Division of Administration, Office of State Procurement, LR 41:

Kristy Nichols
Commissioner

1503#012

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Bureau of Health Services Financing
and
Office of Behavioral Health**

Behavioral Health Services
Statewide Management Organization
LaCHIP Affordable Plan Benefits Administration
(LAC 50:XXXIII.103)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health amend LAC 50:XXXIII.103 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing adopted provisions to implement a coordinated behavioral health services system under the Louisiana Medicaid Program to provide services through the utilization of a Statewide Management Organization that is responsible for the necessary administrative and operational functions to ensure adequate coordination and delivery of behavioral health services (*Louisiana Register*, Volume 38, Number 2).

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health promulgated an Emergency Rule which amended the February 2012 Rule in order to include the administration of behavioral health services covered under the LaCHIP Affordable Plan (Phase 5) (*Louisiana Register*, Volume 38, Number 12). LaCHIP Affordable Plan benefits, including behavioral health services, were administered by the Office of Group Benefits. The administration of these services was transferred to the statewide management organization under the Louisiana Behavioral Health Partnership. The department promulgated an Emergency Rule which amended the provisions of the January 1, 2013 Emergency Rule in order to revise recipient coverage under the LaCHIP

Affordable Plan (*Louisiana Register*, Volume 40, Number 7). This Emergency Rule is being promulgated in order to continue the provisions of the August 1, 2014 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs, and to promote the health and welfare of LaCHIP Affordable Plan recipients.

Effective March 31, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing behavioral health services coordinated by the statewide management organization.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXXIII. Behavioral Health Services

Subpart 1. Statewide Management Organization

Chapter 1. General Provisions

§103. Recipient Participation

A. The following Medicaid recipients shall be mandatory participants in the coordinated behavioral health system of care:

1. - 6. ...
7. Title XXI SCHIP populations, including:
 - a. LaCHIP Phases 1 - 4; and
 - b. LaCHIP Affordable Plan (Phase 5);
8. recipients who receive both Medicare and Medicaid benefits; and
9. recipients enrolled in the LaMOMS program.

B. ...

C. Notwithstanding the provisions of §103.A above, the following Medicaid recipients are excluded from enrollment in the PIHP/SMO:

1. recipients enrolled in the Medicare Beneficiary Programs (QMB, SLMB, QDWI and QI-1);
2. adults who reside in an intermediate care facility for persons with developmental disabilities (ICF/DD);
3. recipients of Refugee Cash Assistance;
4. recipients enrolled in the Regular Medically Needy Program;
5. recipients enrolled in the Tuberculosis Infected Individual Program;
6. recipients who receive emergency services only coverage;
7. recipients who receive services through the Program of All-Inclusive Care for the Elderly (PACE);
8. recipients enrolled in the Low Income Subsidy Program;
9. participants in the TAKE CHARGE Family Planning Waiver; and
10. recipients enrolled in the LaMOMS Program.
11. - 12. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:361 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O.

Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Kathy H. Kliebert
Secretary

1503#039

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Disproportionate Share Hospital Payments
Mental Health Emergency Room Extensions
(LAC 50:V.2711)

The Department of Health and Hospitals, Bureau of Health Services Financing repeals LAC 50:V.2711 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing disproportionate share hospital (DSH) payments for mental health emergency room extensions (MHEREs) in order to change the deadline for hospitals that established a MHERE to sign an agreement to participate for reimbursement of uncompensated care costs for psychiatric services (*Louisiana Register*, Volume 36, Number 8).

As a result of a budgetary shortfall in state fiscal year 2015, the department has determined that it is necessary to amend the provisions governing DSH payments to eliminate payments for MHEREs.

This action is being taken to avoid a budget deficit in the Medical Assistance Program. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$6,312,998 for state fiscal year 2014-2015.

Effective March 5, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing repeals the provisions governing disproportionate share hospital payments for mental health emergency room extensions.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 3. Disproportionate Share Hospital Payments

Chapter 27. Qualifying Hospitals

§2711. Mental Health Emergency Room Extensions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1628 (August 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1781 (August 2010), repealed LR 41:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to Medicaid.Policy@la.gov. Ms. Kennedy is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Kathy H. Kliebert
Secretary

1503#006

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing and Office of Aging and Adult Services

Home and Community-Based Services Waivers Community Choices Waiver Electronic Visit Verification (LAC 50:XXI.9305)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services adopt LAC 50:XXI.9305 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, through collaborative efforts, provide enhanced long-term services and supports to individuals who are elderly or have a disability through the Community Choices Waiver Program.

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services propose to amend the provisions governing the community choices waiver in order to adopt requirements which mandate that providers of personal assistant services must utilize the electronic visit verification (EVV) system designated by the department for automated scheduling, time and attendance tracking, and billing for certain home and community-based services.

This action is being taken to promote the health and welfare of community choices waiver participants by assuring that they receive the services they need and to ensure that these services are rendered in an efficient and cost-effective manner. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Community Choices Waiver Program by approximately \$719,473 for state fiscal year 2014-2015.

Effective April 1, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amend the provisions governing the community choices waiver to establish requirements for the use of an EVV system.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE Part XXI. Home and Community Based Services Waivers

Subpart 7. Community Choices Waiver

Chapter 93. Provider Responsibilities

§9305. Electronic Visit Verification

A. Effective for dates of service on or after April 1, 2015, community choices waiver providers shall use the electronic visit verification (EVV) system designated by the department for automated scheduling, time and attendance tracking, and billing for certain home and community-based services.

B. Reimbursement shall only be made to providers with documented use of the EVV system. The services that require use of the EVV system will be published in the community choices waiver provider manual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 41:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Kathy H. Kliebert
Secretary

1503#033

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Inpatient Hospital Services Non-Rural, Non-State Hospitals Termination of Additional Payments for Hemophilia Blood Products (LAC 50:V.965)

The Department of Health and Hospitals, Bureau of Health Services Financing repeals LAC 50:V.965 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum

period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions governing the reimbursement methodology for non-rural, non-state acute care hospitals to provide additional reimbursements to certain hospitals for the extraordinary costs incurred in the purchase of blood products for Medicaid recipients who have been diagnosed with hemophilia (*Louisiana Register*, Volume 34, Number 10) and other rare bleeding disorders (*Louisiana Register*, Volume 35, Number 4).

As a result of a budget shortfall in state fiscal year 2015, the Department of Health and Hospitals, Bureau of Health Services Financing now proposes to amend the provisions governing the reimbursement methodology for inpatient hospital services rendered by non-rural, non-state hospitals to eliminate the additional reimbursements for hemophilia blood products purchased by hospitals. This action is being taken to avoid a budget deficit in the Medical Assistance Program. It is estimated that the implementation of this Emergency Rule will reduce expenditures for inpatient hospital services by approximately \$300,000 for state fiscal year 2014-2015.

Effective March 5, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing amends the reimbursement methodology for inpatient hospital services rendered by non-rural, non-state hospitals in order to repeal the provisions governing additional reimbursements for hemophilia blood products.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospitals

Chapter 9. Non-Rural, Non-State Hospitals

Subchapter B. Reimbursement Methodology

§965. Hemophilia Blood Products

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2176 (October 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:674 (April 2009), repealed LR 41:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to Medicaidpolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Kathy H. Kliebert
Secretary

1503#007

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Medicaid Eligibility
Modified Adjusted Gross Income
(LAC 50:III.2327, 2529, 10307, and 10705)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:III.10705 and adopts §2327, §2529 and §10307 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

Section 1004(a)(2) of the Patient Protection and Affordable Care Act (ACA) of 2010 and section 36B(d)(2)(B) of the *Internal Revenue Code* mandate that Medicaid eligibility use the modified adjusted gross income (MAGI) methodology for eligibility determinations for certain eligibility groups. In compliance with the ACA and *Internal Revenue Code*, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule to amend the provisions governing Medicaid eligibility to adopt the MAGI eligibility methodology (*Louisiana Register*, Volume 40, Number 1). The department also adopted provisions which allow qualified hospitals to make determinations of presumptive eligibility for individuals who are not currently enrolled in Medicaid.

The department promulgated an Emergency Rule which amended the provisions of the December 31, 2013 Emergency Rule in order to make technical revisions to ensure that these provisions are appropriately promulgated in a clear and concise manner (*Louisiana Register*, Volume 40, Number 4). The provisions governing the MAGI eligibility changes for the state Children's Health Insurance Program were removed from this Emergency Rule and repromulgated independently. The department now proposes to amend the provisions of the April 20, 2014 Rule in order to make an additional technical revision. This action is being taken to avoid federal sanctions.

Effective March 20, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions of the April 20, 2014 Emergency Rule governing Medicaid eligibility.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part III. Eligibility

Subpart 3. Eligibility Groups and Factors

Chapter 23. Eligibility Groups and Medicaid Programs

§2327. Modified Adjusted Gross Income (MAGI) Groups

A. For eligibility determinations effective December 31, 2013 eligibility shall be determined by modified adjusted gross income (MAGI) methodology in accordance with section 1004(a)(2) of the Patient Protection and Affordable

Care Act (ACA) of 2010 and section 36B(d)(2)(B) of the *Internal Revenue Code*, for the following groups:

1. parents and caretaker relatives group which includes adult individuals formerly considered for low income families with children as parents or caretaker relatives;

2. pregnant women;

3. child related groups; and

4. other adult related groups including breast and cervical cancer, tuberculosis (TB) and family planning.

B. A MAGI determination will be necessary for each individual in the home for whom coverage is being requested. The MAGI household resembles the tax household.

1. MAGI Household. The individual's relationship to the tax filer and every other household member must be established for budgeting purposes. The MAGI household is constructed based on whether an individual is a:

a. tax filer;

b. tax dependent; or

c. non-filer (neither tax filer or tax dependent.

2. For the tax filer the MAGI household includes the tax filer and all claimed tax dependents.

a. Whether claimed or not, the tax filer's spouse, who lives in the home, must be included.

b. If a child files taxes and is counted as a tax dependent on his/her parent's tax return, the child is classified as a tax dependent not a tax filer.

3. When taxes are filed for the tax dependent the MAGI household consists of the tax filer and all other tax dependents unless one of the following exceptions is met:

a. being claimed as a tax dependent by a tax filer other than a parent or spouse (for example, a grandchild, niece, or tax filer's parent);

b. children living with two parents who do not expect to file a joint tax return (including step-parents); or

c. children claimed as a tax dependent by a non-custodial parent.

4. For individuals who do not file taxes nor expect to be claimed as a tax dependent (non-filer), the MAGI household consists of the following when they all live together:

a. for an adult:

i. the individual's spouse; and

ii. the individual's natural, adopted, and step-children under age 19; and

b. for a minor:

i. the individual's natural, adoptive, or step-parents; and

ii. the individual's natural, adopted, and step-siblings under age 19.

C. Parents and Caretaker Relatives Group

1. A caretaker relative is a relative of a dependent child by blood, adoption, or marriage with whom the child is living, and who assumes primary responsibility for the child's care. A caretaker relative must be one of the following:

a. parent;

b. grandparent;

c. sibling;

d. brother-in-law;

e. sister-in-law;

f. step-parent;

g. step-sibling;

h. aunt;

i. uncle;

j. first cousin;

k. niece; or

l. nephew.

2. The spouse of such parents or caretaker relatives may be considered a caretaker relative even after the marriage is terminated by death or divorce.

3. The assistance/benefit unit consists of the parent and/or caretaker relative and the spouse of the parent and/or caretaker relative, if living together, of child(ren) under age 18, or age 18 and a full-time student in high school or vocational/technical training. Children are considered deprived if income eligibility is met for the parents and caretaker relatives group. Children shall be certified in the appropriate children's category.

D. Pregnant Women Group

1. Eligibility for the pregnant women group may begin:

a. at any time during a pregnancy; and

b. as early as three months prior to the month of application.

2. Eligibility cannot begin before the first month of pregnancy. The pregnant women group certification may extend through the calendar month in which the 60-day postpartum period ends.

3. An applicant/enrollee whose pregnancy terminated in the month of application or in one of the three months prior without a surviving child shall be considered a pregnant woman for the purpose of determining eligibility in the pregnant women group.

4. Certification shall be from the earliest possible month of eligibility (up to three months prior to application) through the month in which the 60-day postpartum period ends.

5. Retroactive eligibility shall be explored regardless of current eligibility status.

a. If the applicant/enrollee is eligible for any of the three prior months, she remains eligible throughout the pregnancy and 60-day postpartum period. When determining retroactive eligibility actual income received in the month of determination shall be used.

b. If application is made after the month the postpartum period ends, the period of eligibility will be retroactive but shall not start more than three months prior to the month of application. The start date of retroactive eligibility is determined by counting back three months prior to the date of application. The start date will be the first day of that month.

6. Eligibility may not extend past the month in which the postpartum period ends.

7. The applicant/enrollee must be income eligible during the initial month of eligibility only. Changes in income after the initial month will not affect eligibility.

E. Child Related Groups

1. Children Under Age 19—CHAMP. CHAMP children are under age 19 and meet income and non-financial eligibility criteria. ACA expands mandatory coverage to all children under age 19 with household income

at or below 133 percent federal poverty level (FPL). Such children are considered CHAMP children.

2. Children Under Age 19—LaCHIP. A child covered under the Louisiana State Children's Health Insurance Program (LaCHIP) shall:

- a. be under age 19;
- b. not be eligible for Medicaid under any other optional or mandatory eligibility group or eligible as medically needy (without spend-down liability);
- c. not be eligible for Medicaid under the policies in the state's Medicaid plan in effect on April 15, 1997;
- d. not have health insurance; and
- e. have MAGI-based income at or below 212 percent (217 percent FPL with 5 percent disregard) of the federal poverty level.

3. Children Under Age 19—LaCHIP Affordable Plan. A child covered under the Louisiana State Children's Health Insurance Program (LaCHIP) affordable plan shall:

- a. be under age 19;
- b. not be income eligible for regular LaCHIP;
- c. have MAGI-based income that does not exceed 250 percent FPL;
- d. not have other insurance or access to the state employees health plan;
- e. have been determined eligible for child health assistance under the state Child Health Insurance Plan; and
- f. be a child whose custodial parent has not voluntarily dropped the child(ren) from employer sponsored insurance within the last three months without good cause. Good cause exceptions to the three month period for dropping employer sponsored insurance are:
 - i. lost insurance due to divorce or death of parent;
 - ii. lifetime maximum reached;
 - iii. COBRA coverage ends (up to 18 months);
 - iv. insurance ended due to lay-off or business closure;
 - v. changed jobs and new employer does not offer dependent coverage;
 - vi. employer no longer provides dependent coverage;
 - vii. monthly family premium exceeds 9.5 percent of household income; or
 - viii. monthly premium for coverage of the child exceeds 5 percent of household income.

4. Children Under Age 19—Phase IV LaCHIP (SCHIP). The state Child Health Insurance Program (SCHIP) provides prenatal care services, from conception to birth, for low income uninsured mothers who are not otherwise eligible for other Medicaid programs, including CHAMP pregnant women benefits. This program, phase IV LaCHIP, also covers non-citizen women who are not qualified for other Medicaid programs due to citizenship status only.

F. Regular and Spend Down Medically Needy MAGI. Regular and spend down medically needy shall use the MAGI determination methodology.

G. Former Foster Care Children. Former foster care children are applicants/enrollees under 26 years of age, who were in foster care under the responsibility of the state at the

time of their eighteenth birthday, and are not eligible or enrolled in another mandatory coverage category.

1. Former foster care children may also be applicants/enrollees who:

- a. have lost eligibility due to moving out of state, but re-established Louisiana residency prior to reaching age 26; or
- b. currently reside in Louisiana, but were in foster care in another state's custody upon reaching age 18.

2. Former foster care children must:

- a. be at least age 18, but under age 26;
- b. currently live in Louisiana;
- c. have been a child in foster care in any state's custody upon reaching age 18; and
- d. not be eligible for coverage in another mandatory group.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

Chapter 25. Eligibility Factors

§2529. Hospital Presumptive Eligibility

A. Effective December 31, 2013 any hospital designated by Louisiana Medicaid as a hospital presumptive eligibility qualified provider (HPEQP) may obtain information and determine hospital presumptive eligibility (HPE) for individuals who are not currently enrolled in Medicaid and who are in need of medical services covered under the state plan.

1. Coverage groups eligible to be considered for hospital presumptive eligibility include:

- a. parents and caretaker relatives;
- b. pregnant women;
- c. children under age 19;
- d. former foster care children;
- e. family planning; and
- f. certain individuals needing treatment for breast or cervical cancer.

B. Qualified Hospitals. Qualified hospitals shall be designated by the department as entities qualified to make presumptive Medicaid eligibility determinations based on preliminary, self-attested information obtained from individuals seeking medical assistance.

1. A qualified hospital shall:

- a. be enrolled as a Louisiana Medicaid provider under the Medicaid state plan or a Medicaid 1115 demonstration;
- b. not be suspended or excluded from participating in the Medicaid Program;
- c. have submitted a statement of interest in making presumptive eligibility determinations to the department; and
- d. agree to make presumptive eligibility determinations consistent with the state policies and procedures.

C. The qualified hospital shall educate the individuals on the need to complete an application for full Medicaid and shall assist individuals with:

1. completing and submitting the full Medicaid application; and
2. understanding any document requirements as part of the full Medicaid application process.

D. Eligibility Determinations

1. Household composition and countable income for HPE coverage groups are based on modified adjusted gross income (MAGI) methodology.

2. The presumptive eligibility period shall begin on the date the presumptive eligibility determination is made by the qualified provider.

3. The end of the presumptive eligibility period is the earlier of:

a. the date the eligibility determination for regular Medicaid is made, if an application for regular Medicaid is filed by the last day of the month following the month in which the determination for presumptive eligibility is made; or

b. the last day of the month following the month in which the determination of presumptive eligibility is made, if no application for regular Medicaid is filed by that date.

4. Those determined eligible for presumptive eligibility shall be limited to no more than one period of eligibility in a 12-month period, starting with the effective date of the initial presumptive eligibility period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

Subpart 5. Financial Eligibility

Chapter 103. Income

§10307. Modified Adjusted Gross Income—(MAGI) Groups

A. MAGI Related Types of Income

1. Alimony shall be counted as unearned income payments made directly to the household from non-household members.

2. Alien sponsor's income shall be counted against the flat grant needs of the alien's household. If the income of the sponsor is equal to or greater than the flat grant amount for the number of people in the alien parent's family, the alien parent(s) is not eligible for inclusion in his children's Medicaid certification.

3. Business income or loss shall be countable net profit or loss from partnerships, corporations, etc.

4. Capital gain or loss shall be countable income.

5. A child's earned income is counted, except for the tax filer's budget when earnings are below the tax filing threshold.

6. Annual income received under an implied, verbal, or written contract in less than 12 months shall be averaged over the 12-month period it is intended to cover unless the income is received on an hourly or piecework basis.

7. Disability insurance benefits shall count as unearned income. If federal and/or state taxes are deducted, disability insurance benefits shall count as earned income.

8. Dividends shall count as unearned income. Dividends shall be averaged for the period they are intended to cover.

9. Interest, including tax-exempt interest, shall count as unearned income. Interest shall be averaged for the period it is intended to cover.

10. Irregular and unpredictable income shall count as income in the month of receipt. Annual income received under an implied, verbal, or written contract in less than 12 months shall be averaged over the 12-month period it is

intended to cover unless the income is received on an hourly or piecework basis.

11. Income received from employment through the Job Training Partnership Act of 1982 (JTPA) program shall be counted as earned income. JTPA income received for training through JTPA program shall be counted as unearned income.

12. A non-recurring cash payment (lump sum) shall count as income only in the calendar month of receipt. This includes insurance settlements, back pay, state tax refunds, inheritance, IRA or other retirement distributions, and retroactive benefit payments.

13. Regular recurring income from oil and land leases shall be counted over the period it is intended to cover and counted as unearned income. Payments received in the first year of an oil lease, which are above the regular recurring rental and payments received when an oil lease is written for only one year, are treated as non-recurring lump sum payments.

14. Pensions and annuities shall count as unearned income.

15. Income is potentially available when the applicant/enrollee has a legal interest in a liquidated sum and has the legal ability to make this sum available for the support and maintenance of the assistance unit. Potential income shall be counted when it is actually available as well as when it is potentially available but the applicant/enrollee chooses not to receive the income. If the agency representative is unable to determine the amount of benefits available, the application shall be rejected for failure to establish need.

16. Railroad retirement shall count as unearned income the amount of the entitlement including the amount deducted from the check for the Medicare premiums, less any amount that is being recouped for a prior overpayment.

17. Ownership of rental property is considered a self-employment enterprise. Income received from rental property may be earned or unearned. To be counted as earned income, the applicant/enrollee must perform some work related activity. If the applicant/enrollee does not perform work related activity, the money received shall be counted as unearned income. Only allowable expenses associated with producing the income may be deducted. If the income is earned, any other earned income deductions are allowed.

18. The gross amount of retirement benefits, including military retirement benefits, counts as unearned income.

19. Royalties shall count as unearned income. Royalties shall be prorated for the period they are intended to cover.

20. Scholarships, awards, or fellowship grants shall count as unearned income if used for living expenses such as room and board.

21. Seasonal earnings shall count as earned income in the month received. If contractual, such as a bus driver or teacher, the income shall be prorated over the period it is intended to cover. If earnings are self-employment seasonal income, they shall be treated as self-employment income as below in Paragraph 22.

22. Self-employment income is counted as earned income. Self-employment income is income received from an applicant/enrollee's own business, trade, or profession if no federal or state withholding tax or Social Security tax is

deducted from his job payment. This may include earnings as a result of participation in Delta Service Corps and farm income.

a. Allowable expenses are those allowed when filing taxes on a schedule C or farm income schedule F.

23. Social Security retirement, survivors and disability insurance benefits (RSDI) shall count as unearned income. The amount counted shall be that of the entitlement including the amount deducted from the check for the Medicare premium, less any amount that is being recouped for a prior overpayment.

24. Income from taxable refunds, credits, or offsets of state and local income taxes if claimed on Form 1040 shall count as unearned income.

25. Income from income trust withdrawals, dividends, or interest which are or could be received by the applicant/enrollee shall count as unearned income.

26. Tutorship funds are any money released by the court to the applicant/enrollee and shall be counted as unearned income.

27. Unemployment compensation benefits (UCB) shall be counted as unearned income in the month of receipt.

28. Taxable gross wages, salaries, tips, and commissions, including paid sick and vacation leave, shall count as earned income. Included as earned income are:

a. vendor payments made by the employer instead of all or part of the salary;

b. the cash value of an in-kind item received from an employer instead of all or part of the salary; and

c. foreign earnings.

29. The following types of income shall not be counted for MAGI budgeting:

a. adoption assistance;

b. Agent Orange Settlement payments;

c. American Indian and Native American Claims and Lands and income distributed from such ownership;

d. Census Bureau earnings;

e. child support payments received for anyone in the home;

f. contributions from tax-exempt organizations;

g. disaster payments;

h. Domestic Volunteer Service Act;

i. earned income credits;

j. educational loans;

k. energy assistance;

l. foster care payments;

m. Housing and Urban Development (HUD) block grant funds, payments, or subsidies;

n. in-kind support and maintenance;

o. loans;

p. income from nutritional programs;

q. income from radiation exposure;

r. relocation assistance;

s. scholarships, awards or fellowship grants used for education purposes and not for living expenses;

t. Supplemental Security Income (SSI);

u. vendor payments;

v. veterans' benefits;

w. Women, Infants and Children Program (WIC) benefits;

x. work-study program income;

y. worker's compensation benefits; and

z. cash contributions. Money which is contributed by the absent parent of a child in the assistance unit is considered child support and not counted. Small, non-recurring monetary gifts (e.g., Christmas, birthday, or graduation gifts) are not counted. Cash contributions include any money other than loans received by or for a member of the income unit if:

i. the use is left to the discretion of the member of the income unit; or

ii. the contribution is provided for the specific purpose of meeting the maintenance needs of a member of the assistance unit.

B. Financial eligibility for the MAGI groups shall be made using income received in the calendar month prior to the month of application or renewal as an indicator of anticipated income. The taxable gross income of each member of the MAGI household shall be used. Income eligibility of the household shall be based on anticipated income and circumstances unless it is discovered that there are factors that will affect income currently or in future months.

1. Income eligibility is determined by prospective income budgeting or actual income budgeting.

a. Prospective income budgeting involves looking at past income to determine anticipated future income. Income earned in the calendar month prior to the month of application or renewal which the applicant/enrollee earned shall be used to determine expected income in the current and future months.

b. Actual income budgeting involves looking at income actually received within a specific month to determine income eligibility for that month. Actual income shall be used for all retroactive coverage. Actual income or the best estimate of anticipated actual income shall be used if:

i. the income terminates during the month;

ii. the income begins during the month; or

iii. the income is interrupted during the month.

2. Income of a Tax Dependent. The earned income of a tax dependent including a child shall be counted when calculating the financial eligibility of a tax filer when the earned income meets the tax filing threshold. The unearned income of a tax dependent, including a child, shall be used when calculating MAGI based financial eligibility regardless of tax filing status (e.g., RSDI).

a. Cash contributions to a dependent shall be counted towards the dependent.

3. Allowable Tax Deductions for MAGI. The following deductions from an individual's income shall be used to determine the individual's adjusted gross income:

a. educator expenses;

b. certain business expenses of reservists, performing artists and fee basis government offices;

c. health savings account deductions;

d. moving expenses;

e. the deductible part of self-employment tax;

f. self-employed SEP, SIMPLE and qualified plans;

g. self-employed health insurance deduction;

h. the penalty on early withdrawal of savings;

i. alimony paid outside the home;

j. IRA deductions;

k. student loan interest deduction;

- l. tuition and fees; and
- m. domestic production activities deductions.
4. A 5 percent disregard shall be allowed on MAGI budgets when it is the difference between eligibility or ineligibility for the individual in a child related program.

5. The net countable income for the individual's household shall be compared to the applicable income standard for the household size to determine eligibility.

a. If the countable income is below the income standard for the applicable MAGI group, the individual is income eligible.

b. If the countable income is above the income standard for the applicable MAGI group, the individual is income ineligible.

C. Federal Poverty Income Guidelines (FPIG). Eligibility shall be based upon the following guidelines using the federal poverty income guidelines and adjusted to account for the 5 percent disregard:

1. parents/caretakers, income is less or equal to 24 percent FPIG;

2. pregnant women, income is less or equal to 138 percent FPIG;

3. CHAMP (children 0-18), income is less or equal to 147 percent FPIG;

4. LaCHIP, income is less or equal to 217 percent FPIG;

5. LaCHIP IV (unborn option), income is less or equal to 214 percent FPIG; and

6. LaCHIP affordable plan, income does not exceed 255 percent FPIG.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

Chapter 107. Resources

§10705. Resource Disregards

A. - C.2. ...

D. Modified Adjusted Gross Income (MAGI) Groups. Resources will be disregarded for those groups using the MAGI determinations methodology.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:1899 (September 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2867 (December 2010), LR 41:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Kathy H. Kliebert
Secretary

1503#036

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Medicaid Eligibility Provisional Medicaid Program (LAC 50:III.2305)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:III.2305 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

Section 1902(a)(10) of title XIX of the Social Security Act and section 435.210 of title 42 of the *Code of Federal Regulations* (CFR) provides states with the option to cover individuals under their Medicaid state plan who are aged or have a disability, and who meet the income and resource requirements for supplemental security income (SSI) cash assistance. These individuals must be referred to the Social Security Administration (SSA) for assistance as there currently is no eligibility category under the Medicaid Program to provide them with Medicaid benefits. Their Medicaid eligibility is contingent upon a favorable decision for SSI cash assistance.

Pursuant to section 1902(a)(10) of title XIX of the Social Security Act and 42 CFR 435.210, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which adopted provisions to include this optional coverage group under the Medicaid state plan by implementing the Provisional Medicaid Program (*Louisiana Register*, Volume 40, Number 2). This Medicaid program provides Medicaid-only benefits to eligible individuals.

The department has now determined that it is necessary to amend the provisions of the February 9, 2014 Emergency Rule in order to clarify these provisions. This action is being taken to avoid imminent peril to the health and safety of certain individuals who would have to wait for a Social Security Administration decision to receive Medicaid benefits in order to obtain necessary medical care.

Effective March 20, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions of the February 9, 2014 Emergency Rule governing the Provisional Medicaid Program.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part III. Eligibility

Subpart 3. Eligibility Groups and Factors

Chapter 23. Eligibility Groups and Medicaid Programs

§2305. Provisional Medicaid Program

A. The Provisional Medicaid Program provides Medicaid-only coverage to individuals who:

1. are aged or have a disability; and
2. meet income and resource requirements for supplemental security income (SSI) cash assistance.

B. The Provisional Medicaid Program provides coverage to individuals with income equal to or less than the federal benefit rate (FBR), and resources that are equal to or less than the resource limits of the SSI cash assistance program.

C. A certification period for the Provisional Medicaid Program shall not exceed 12 months.

D. Retroactive coverage up to three months prior to the receipt of the Medicaid application shall be available to recipients in the Provisional Medicaid Program.

1. Any retroactive coverage period shall not be prior to the implementation date of the Provisional Medicaid Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Kathy H. Kliebert
Secretary

1503#035

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Nursing Facilities Reimbursement Methodology Supplemental Payments (LAC 50:II.20029)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:II.20029 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides Medicaid reimbursement to non-state, government-owned or operated nursing facilities for long-term care services provided to Medicaid recipients. The department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for nursing facilities to adopt provisions for supplemental Medicaid payments to qualifying non-state, government-owned or operated nursing facilities that enter into an agreement with the department (*Louisiana Register*, Volume 40, Number 12). This Emergency Rule is being promulgated to continue the provisions of the November 22, 2014 Emergency Rule. This

action is being taken to promote the health and welfare of Medicaid recipients, ensure sufficient provider participation in the Nursing Facilities Program, and maintain adequate recipient access to nursing facility services.

Effective March 23, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for nursing facilities to establish supplemental Medicaid payments for non-state, government-owned and operated nursing facilities.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part II. Nursing Facilities

Subpart 5. Reimbursement

Chapter 200. Reimbursement Methodology

§20029. Supplemental Payments

A. Effective for dates of service on or after November 22, 2014, any nursing facility that is owned or operated by a non-state governmental entity may qualify for a Medicaid supplemental payment adjustment, in addition to the uniform Medicaid rates paid to nursing facilities.

B. The supplemental Medicaid payment to a non-state, government-owned or operated nursing facility shall not exceed the facility's upper payment limit (UPL) pursuant to 42 CFR 447.272.

C. Payment Calculations. The Medicaid supplemental payment adjustment shall be calculated as follows. For each state fiscal year (SFY), the Medicaid supplemental payment shall be calculated as the difference between:

1. the amount that the department reasonably estimates would have been paid to nursing facilities that are owned or operated by a non-state governmental entity using the Medicare resource utilization groups (RUGs) prospective payment system. For each Medicaid resident that is in a nursing facility on the last day of a calendar quarter, the minimum data set (MDS) assessment that is in effect on that date is classified using the Medicare RUGs system. The Medicare rate applicable to the Medicare RUG, adjusted by the Medicare geographic wage index, equals the Medicaid resident's estimated Medicare rate. A simple average Medicare rate is determined for each nursing facility by summing the estimated Medicare rate for each Medicaid resident in the facility and dividing by total Medicaid residents in the facility; and

2. the Medicaid per diem rate for nursing facilities that are owned or operated by a non-state governmental entity. The Medicaid rate shall be adjusted to include laboratory, radiology, and pharmacy services to account for program differences in services between Medicaid and Medicare. The statewide average of laboratory, radiology, and pharmacy services is calculated using Medicaid cost report data.

D. Each participating nursing facility's upper payment limit (UPL) gap shall be determined as the difference between the estimated Medicare rate calculated in §20029.C.1 and the adjusted Medicaid rate calculated in §20029.C.2.

1. Each facility's UPL gap is multiplied by the Medicaid days to arrive at its supplemental payment amount. Medicaid days are taken from the Medicaid cost report.

E. Frequency of Payments and Calculations

1. For each calendar quarter, an estimated interim supplemental payment will be calculated as described in this Section utilizing the latest Medicare RUGs and payment rates and Medicaid cost reports and available Medicaid payment rates. Payments will be made to each nursing facility that is owned or operated by a non-state governmental entity and that has entered into an agreement with the department to participate in the supplemental payment program.

2. Following the completion of the state's fiscal year, the final supplemental payment amount for the state fiscal year just ended will be calculated. These calculations will be based on the final Medicare RUGs and payment rates and the most recently reviewed Medicaid cost reports and Medicaid payment rates that cover the just ended state fiscal year period. The final supplemental payment calculations will be compared to the estimated interim supplemental payments and the difference if positive will be paid to the non-state governmental entity, and if negative, collected from the non-state governmental entity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 46:2742, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Kathy H. Kliebert
Secretary

1503#040

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Outpatient Hospital Services
Public-Private Partnerships
Reimbursement Methodology
(LAC 50:V.6703)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:V.6703 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing outpatient hospital services to establish supplemental Medicaid payments to non-state owned hospitals in order to encourage them to take over the operation and management of state-owned hospitals that have terminated or reduced services (*Louisiana Register*, Volume 38, Number 11). Participating non-state owned hospitals shall enter into a cooperative endeavor agreement with the department to support this public-private partnership initiative. The department promulgated an Emergency Rule which amended the provisions of the November 1, 2012 Emergency Rule to revise the reimbursement methodology in order to correct the federal citation (*Louisiana Register*, Volume 39, Number 3).

The department promulgated an Emergency Rule which amended the provisions governing reimbursement for Medicaid payments for outpatient services provided by non-state owned major teaching hospitals participating in public-private partnerships which assume the provision of services that were previously delivered and terminated or reduced by a state owned and operated facility (*Louisiana Register*, Volume 38, Number 4). This Emergency Rule is being promulgated to continue the provisions of the April 15, 2013 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by maintaining recipient access to much needed hospital services.

Effective April 11, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing Medicaid payments for outpatient hospital services provided by non-state owned hospitals participating in public-private partnerships.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 5. Outpatient Hospital Services

Chapter 67. Public-Private Partnerships

§6703. Reimbursement Methodology

A. Payments to qualifying hospitals shall be made on a quarterly basis in accordance with 42 CFR 447.321.

B. Effective for dates of service on or after April 15, 2013, a major teaching hospital that enters into a cooperative endeavor agreement with the Department of Health and Hospitals to provide acute care hospital services to Medicaid and uninsured patients, and which assumes providing services that were previously delivered and terminated or reduced by a state owned and operated facility shall be reimbursed as follows.

1. Outpatient Surgery. The reimbursement amount for outpatient hospital surgery services shall be an interim payment equal to the Medicaid fee schedule amount on file for each service, and a final reimbursement amount of 95 percent of allowable Medicaid cost.

2. Clinic Services. The reimbursement amount for outpatient clinic services shall be an interim payment equal to the Medicaid fee schedule amount on file for each service, and a final reimbursement amount of 95 percent of allowable Medicaid cost.

3. Laboratory Services. The reimbursement amount for outpatient clinical diagnostic laboratory services shall be the Medicaid fee schedule amount on file for each service.

4. Rehabilitative Services. The reimbursement amount for outpatient clinic services shall be an interim payment equal to the Medicaid fee schedule amount on file for each service, and a final reimbursement amount of 95 percent of allowable Medicaid cost.

5. Other Outpatient Hospital Services. The reimbursement amount for outpatient hospital services other than clinical diagnostic laboratory services, outpatient surgeries, rehabilitation services and outpatient hospital facility fees shall be an interim payment equal to 95 percent of allowable Medicaid cost.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Kathy H. Kliebert
Secretary

1503#041

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing and Office of Aging and Adult Services

Personal Care Services—Long-Term Standards for Participation Electronic Visit Verification (LAC 50:XV.12909)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amend LAC 50:XV.12909 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, through collaborative efforts, provide enhanced long-term personal care services and supports to individuals with functional impairments.

The department now proposes to amend the provisions governing long-term personal care services (LT-PCS) in order to adopt requirements which mandate that LT-PCS

providers must utilize the electronic visit verification (EVV) system designated by the department for automated scheduling, time and attendance tracking, and billing for long-term personal care services.

This action is being taken to promote the health and welfare of persons with a functional impairment by assuring that they receive the services they need, and to ensure that these services are rendered in an efficient and cost-effective manner. It is estimated that the implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$655,561 for state fiscal year 2014-2015.

Effective April 1, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amend the provisions governing long-term personal care services to establish requirements for the use of an EVV system.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 9. Personal Care Services

Chapter 129. Long Term Care

§12909. Standards for Participation

A. - D.2. ...

E. Electronic Visit Verification. Effective for dates of service on or after April 1, 2015, providers of long-term personal care services shall use the electronic visit verification (EVV) system designated by the department for automated scheduling, time and attendance tracking, and billing for certain home and community-based services.

1. Reimbursement shall only be made to providers with documented use of the EVV system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:912 (June 2003), amended LR 30:2832 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2579 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:2451 (November 2009), LR 39:2508 (September 2013), LR 41:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Kathy H. Kliebert
Secretary

1503#037

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Psychiatric Residential Treatment Facilities Licensing Standards (LAC 48:I.Chapter 90)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 48:I.Chapter 90 as authorized by R.S. 40:2179-2179.1. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the licensing of psychiatric residential treatment facilities (PRTFs) in order to revise the licensing standards as a means of assisting PRTFs to comply with the standards (*Louisiana Register*, Volume 39, Number 9). The department promulgated an Emergency Rule which amended the provisions governing the licensing standards for PRTFs in order to remove service barriers, clarify appeal opportunities, avoid a reduction in occupancy of PRTFs in rural locations, and clarify the process for cessation of business (*Louisiana Register*, Volume 40, Number 8). The department now proposes to amend the provisions of the August 20, 2014 Emergency Rule in order to revise the formatting of these provisions to ensure that these provisions are appropriately promulgated in a clear and concise manner. This action is being taken to avoid imminent peril to the public health, safety and welfare of the children and adolescents who are in need of these services.

Effective March 20, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions of the August 20, 2014 Emergency Rule governing the licensing of psychiatric residential treatment facilities.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing

Chapter 90. Psychiatric Residential Treatment Facilities (under 21)

Subchapter A. General Provisions

§9003. Definitions

A. ...

Cessation of Business—Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:54 (January 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:371 (February 2012), LR 39:2510 (September 2013), LR 41:

Subchapter B. Licensing

§9015. Licensing Surveys

A. - D. ...

E. If deficiencies have been cited during a licensing survey, regardless of whether an acceptable plan of correction is required, the department may issue appropriate sanctions, including, but not limited to:

1. civil fines;
2. directed plans of correction;
3. provisional licensure;
4. denial of renewal; and/or
5. license revocations.

F. - F.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:375 (February 2012), amended LR 41:

§9017. Changes in Licensee Information or Personnel

A. - D.2. ...

3. A PRTF that is under provisional licensure, license revocation or denial of license renewal may not undergo a CHOW.

E. - F.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:375 (February 2012), amended LR 41:

§9019. Cessation of Business

A. Except as provided in §9089 of these licensing regulations, a license shall be immediately null and void if a PRTF ceases to operate.

1. - 3. Repealed.

B. A cessation of business is deemed to be effective the date on which the PRTF stopped offering or providing services to the community.

C. Upon the cessation of business, the provider shall immediately return the original license to the department.

D. Cessation of business is deemed to be a voluntary action on the part of the provider. The provider does not have a right to appeal a cessation of business.

E. Prior to the effective date of the closure or cessation of business, the PRTF shall:

1. give 30 days' advance written notice to:
 - a. HSS;
 - b. the prescribing physician; and
 - c. the parent(s) or legal guardian or legal representative of each client; and
2. provide for an orderly discharge and transition of all of the clients in the facility.

F. In addition to the advance notice of voluntary closure, the PRTF shall submit a written plan for the disposition of clients' medical records for approval by the department. The plan shall include the following:

1. the effective date of the voluntary closure;
2. provisions that comply with federal and state laws on storage, maintenance, access, and confidentiality of the closed provider's clients' medical records;
3. an appointed custodian(s) who shall provide the following:

a. access to records and copies of records to the client or authorized representative, upon presentation of proper authorization(s); and

b. physical and environmental security that protects the records against fire, water, intrusion, unauthorized access, loss and destruction; and

4. public notice regarding access to records, in the newspaper with the largest circulation in close proximity to the closing provider, at least 15 days prior to the effective date of closure.

G. If a PRTF fails to follow these procedures, the owners, managers, officers, directors, and administrators may be prohibited from opening, managing, directing, operating, or owning a PRTF for a period of two years.

H. Once the PRTF has ceased doing business, the PRTF shall not provide services until the provider has obtained a new initial license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:375 (February 2012), amended LR 41:

§9023. Denial of License, Revocation of License, Denial of License Renewal

A. - C.3. ...

D. Revocation of License or Denial of License Renewal. A PRTF license may be revoked or may be denied renewal for any of the following reasons, including but not limited to:

1. - 13. ...

14. bribery, harassment, or intimidation of any resident or family member designed to cause that resident or family member to use or retain the services of any particular PRTF; or

15. failure to maintain accreditation or failure to obtain accreditation.

16. Repealed.

E. If a PRTF license is revoked or renewal is denied, or the license is surrendered in lieu of an adverse action, any owner, officer, member, director, manager, or administrator of such PRTF may be prohibited from opening, managing, directing, operating, or owning another PRTF for a period of two years from the date of the final disposition of the revocation, denial action, or surrender.

F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:376 (February 2012), amended LR 41:

§9025. Notice and Appeal of License Denial, License Revocation, License Non-Renewal, and Appeal of Provisional License

A. - B. ...

1. The PRTF shall request the informal reconsideration within 15 calendar days of the receipt of the notice of the license denial, license revocation, or license non-renewal. The request for informal reconsideration must be in writing and shall be forwarded to the Health Standards Section.

2. - D. ...

E. If a timely administrative appeal has been filed by the facility on a license denial, license non-renewal, or license

revocation, the Division of Administrative Law shall conduct the hearing pursuant to the Louisiana Administrative Procedure Act.

E.1. - G.2. ...

3. The provider shall request the informal reconsideration in writing, which shall be received by the Health Standards Section within five days of receipt of the notice of the results of the follow-up survey from the department.

a. Repealed.

4. The provider shall request the administrative appeal within 15 days of receipt of the notice of the results of the follow-up survey from the department. The request for administrative appeal shall be in writing and shall be submitted to the Division of Administrative Law, or its successor.

a. Repealed.

H. - H.1. ...

I. If a timely administrative appeal has been filed by a facility with a provisional initial license that has expired or by an existing provider whose provisional license has expired under the provisions of this Chapter, the Division of Administrative Law shall conduct the hearing pursuant to the Louisiana Administrative Procedure Act.

1. - 2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:377 (February 2012), amended LR 41:

§9027. Complaint Surveys

A. - J.1. ...

a. The offer of the administrative appeal, if appropriate, as determined by the Health Standards Section, shall be included in the notification letter of the results of the informal reconsideration. The right to administrative appeal shall only be deemed appropriate and thereby afforded upon completion of the informal reconsideration.

2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:378 (February 2012), amended LR 41:

§9029. Statement of Deficiencies

A. - C.1. ...

2. The written request for informal reconsideration of the deficiencies shall be submitted to the Health Standards Section and will be considered timely if received by HSS within 10 calendar days of the provider's receipt of the statement of deficiencies.

3. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:379 (February 2012), amended LR 41:

Subchapter H. Additional Requirements for Mental Health PRTFs

§9093. Personnel Qualifications, Responsibilities, and Requirements

A. - 2.a.iv. ...

b. The clinical director is responsible for the following:

i. providing clinical direction for each resident at a minimum of one hour per month, either in person on-site, or via telemedicine pursuant to R.S. 37:1261-1292 et seq., and LAC 46:XLV.408 and Chapter 75 et seq.;

(a). - 3.a.iv. ...

b. A LMHP or MHP shall provide for each resident a minimum weekly total of 120 minutes of individual therapy.

3.c. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:397 (February 2012), amended LR 39:2511 (September 2013), LR 41:

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821, or by email to MedicaidPolicy@la.gov. Ms. Castello is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Kathy H. Kliebert
Secretary

1503#038

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

State Children's Health Insurance Program
Coverage of Prenatal Care Services
(LAC 50:III.20301 and 20303)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:III.20301 and 20303 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to title XXI of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated a Rule which adopted provisions to expand coverage to children under title XXI of the Social Security Act by implementing a stand-alone State Children's Health Insurance Program (SCHIP) to provide coverage of prenatal care services to low-income, non-citizen women and to clarify the service limits and prior authorization criteria for SCHIP prenatal care services (*Louisiana Register*, Volume 35, Number 1).

The Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions of the January 20, 2009 Rule in order to include Medicaid coverage for the unborn child(ren) of any pregnant woman with income between 138

percent and 214 percent of the federal poverty level (FPL) (*Louisiana Register*, Volume 40, Number 1). The department promulgated an Emergency Rule which amended the December 31, 2013 Emergency Rule in order to clarify these provisions (*Louisiana Register*, Volume 40, Number 4). This Emergency Rule is being promulgated to continue the provisions of the April 20, 2014 Emergency Rule. This action is being taken to promote the health and welfare of pregnant women by increasing access to prenatal care services that will support better health outcomes for babies.

Effective April 18, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the State Children's Health Insurance Program coverage of prenatal care services.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part III. Eligibility

Subpart 11. State Children's Health Insurance Program

Chapter 203. Prenatal Care Services

§20301. General Provisions

A. ...

B. Effective December 31, 2013, coverage of SCHIP prenatal care services shall be expanded to include any pregnant woman with income between 138 percent and 214 percent of the FPL.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XXI of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:72 (January 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§20303. Eligibility Criteria

A. - B.1. ...

C. Recipients must have family income at or below 214 percent of the FPL.

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XXI of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:72 (January 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Kathy H. Kliebert
Secretary

1503#042

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

State Children's Health Insurance Program
Modified Adjusted Gross Income
(LAC 50:III.20103)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:III.20103 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to title XXI of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

Section 1004(a)(2) of the Patient Protection and Affordable Care Act (ACA) of 2010 and section 36B (d)(2)(B) of the *Internal Revenue Code* mandate that Medicaid eligibility use the modified adjusted gross income (MAGI) methodology for eligibility determinations for certain eligibility groups. In compliance with the ACA and *Internal Revenue Code*, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing Medicaid eligibility to adopt the MAGI methodology for eligibility groups covered under title XIX (Medicaid) and title XXI (Children's Health Insurance Program) of the Social Security Act (*Louisiana Register*, Volume 40, Number 1). The department also adopted provisions which allow qualified hospitals to make determinations of presumptive eligibility for individuals who are not currently enrolled in Medicaid.

The department promulgated an Emergency Rule which amended the provisions of the December 31, 2013 Emergency Rule in order to make technical revisions to ensure that these provisions are appropriately promulgated in a clear and concise manner (*Louisiana Register*, Volume 40, Number 4). The provisions governing the MAGI eligibility changes for the Louisiana Children's Health Insurance Program (LaCHIP) were repromulgated independent of the provisions governing the title XIX eligibility groups. This Emergency Rule is being promulgated to continue the provisions of the December 31, 2013 Emergency Rule. This action is being taken to avoid federal sanctions.

Effective April 18, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing Medicaid eligibility.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part III. Eligibility

Subpart 11. State Children's Health Insurance Program

Chapter 201. Louisiana Children's Health Insurance Program (LaCHIP)—Phases 1-3

§20103. Eligibility Criteria

A. - A.1. ...

2. are from families with income at or below 217 percent of the federal poverty level; and

A.3. - D.1.f. ...

E. Effective December 31, 2013 eligibility for LaCHIP shall be determined by modified adjusted gross income

(MAGI) methodology in accordance with section 1004(a)(2) of the Patient Protection and Affordable Care Act (ACA) of 2010 and section 36B (d)(2)(B) of the *Internal Revenue Code*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XXI of the Social Security Act.

HISTORICAL NOTE: Repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:659 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Kathy H. Kliebert
Secretary

1503#043

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of Public Health

Added Controlled Dangerous Substances
(LAC 46:LIII.2704)

The Department of Health and Hospitals, Office of Public Health (DHH/OPH), pursuant to the rulemaking authority granted to the secretary of DHH by R.S. 40:962(C) and (H), hereby adopts the following Emergency Rule, effective February 26, 2015, for the protection of public health. This Rule is being promulgated in accordance with the Administrative Procedure Act (R.S. 49:950 et seq.).

Based on the criteria, factors, and guidance set forth in R.S. 40:962(C) and 40:963, the secretary, under this rulemaking, has determined that the below listed substances have a high potential for abuse and should be scheduled as controlled dangerous substances to avoid an imminent peril to the public health, safety, or welfare. In reaching the decision to designate the below listed substances as controlled dangerous substances under schedule I, the secretary has considered the criteria provided under R.S. 40:963 and the specific factors listed under R.S. 40:962(C). The secretary has determined that schedule I is the most appropriate due to her findings that the substances added herein have a high potential for abuse, the substances have no currently accepted medical use for treatment in the United States, and there is a lack of accepted safety for use of the substances under medical supervision.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIII. Pharmacists

Chapter 27. Controlled Dangerous Substances

Subchapter A. General Provisions

§2704. Added Controlled Dangerous Substances

A. - A.3. ...

4. methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:962, R.S. 40:963, and R.S. 49:953(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 41:

Jimmy Guidry, M.D.
State Health Officer and
DHH Medical Director
and
Kathy H. Kliebert
Secretary

1503#005

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of Public Health

Minimum Disinfectant Residual Levels in Public Water
Systems (LAC 51:XII.311, 355, 357, 361,
363, 367, 903, 1102, 1105, 1113, 1117,
1119, 1125, 1133, 1135, 1139 and 1503)

The state health officer, acting through the Department of Health and Hospitals, Office of Public Health (DHH, OPH), pursuant to the rulemaking authority granted by R.S. 40:4(A)(8) and (13) and in accordance with the intent of Act 573 of 2014, hereby adopts the following Emergency Rule to prevent an imminent peril to the public health and safety. This Rule is being promulgated in accordance with the Administrative Procedure Act (R.S. 49:950 et seq.).

The state health officer, through DHH-OPH, finds it necessary to promulgate an Emergency Rule effective March 3, 2015. This Emergency Rule increases the minimum disinfection residual levels that are required for public water systems. Among other items addressed as well, the Rule increases the number of residual measurements taken monthly by 25 percent. The Rule clarifies that daily residual measurements are required at the point of maximum residence time in the distribution system and records of chlorine residual measurements taken in the distribution system, besides from the treatment plant(s) itself, shall be recorded and retained by the public water system as required by the national primary drinking water regulations (as this term is defined in Part XII). This Rule is based upon scientific data and recommendations from the federal Centers for Disease Control and Prevention (CDC) relative to the control of the *Naegleria fowleri* (brain-eating amoeba) parasite which has, thus far, been found in four public water systems within Louisiana. Unless rescinded or terminated earlier, this Emergency Rule shall remain in effect for the maximum period authorized under state law. This Emergency Rule may be amended as additional research and science data becomes available.

Title 51

PUBLIC HEALTH—SANITARY CODE

Part XII. Water Supplies

Chapter 3. Water Quality Standards

§311. Records

[formerly paragraph 12:003-2]

A. Complete daily records of the operation of a public water system, including reports of laboratory control tests and any chemical test results required for compliance

determination, shall be kept and retained as prescribed in the national primary drinking water regulations on forms approved by the state health officer. When specifically requested by the state health officer or required by other requirements of this Part, copies of these records shall be provided to the office designated by the state health officer within 10 days following the end of each calendar month. Additionally, all such records shall be made available for review during inspections/sanitary surveys performed by the state health officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1321 (June 2002), amended LR 30:1195 (June 2004), LR 41:

§355. Mandatory Disinfection

[formerly paragraph 12:021-1]

A. Routine, continuous disinfection is required of all public water systems.

1. Where a continuous chloramination (i.e., chlorine with ammonia addition) method is used, water being delivered to the distribution system shall contain a minimum concentration of 0.5 mg/l of chloramine residual (measured as total chlorine).

2. Where a continuous free chlorination method is used, water being delivered to the distribution system shall contain a minimum concentration of free chlorine residual in accordance with the following table.

Table 355.A.2	
pH Value	Free Chlorine Residual
up to 7.0	0.5 mg/l
7.0 to 8.0	0.6 mg/l
8.0 to 9.0	0.8 mg/l
over 9.0	1.0 mg/l

a. Table 355.A.2 does not apply to systems using chloramines.

b. pH values shall be measured in accordance with the methods set forth in §1105.D of this Part.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(13) and R.S. 40:5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1326 (June 2002), amended LR 28:2514 (December 2002), LR 35:1240 (July 2009), LR 38:2376 (September 2012), LR 41:

§357. Minimum Disinfection Residuals

[formerly paragraph 12:021-2]

A. Disinfection equipment shall be operated to maintain disinfectant residuals in each finished water storage tank and at all points throughout the distribution system at all times in accordance with the following minimum levels:

1. a free chlorine residual of 0.5 mg/l; or
2. a chloramine residual (measured as total chlorine) of 0.5 mg/l for those systems that feed ammonia.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8)(13) and R.S. 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1327 (June 2002), amended LR 41:

§361. Implementation of Disinfection Requirements

A. A public water system not holding a disinfection variance on November 6, 2013 shall comply with the

requirements of §355.A, §357, §367.C, and §367.G of this Part on the later of:

1. February 1, 2014; or
2. the expiration date of any additional time for compliance beyond February 1, 2014 granted by the state health officer. A request for additional time may be submitted in writing prior to February 1, 2014 only, and shall provide detailed justification and rationale for the additional time requested. The state health officer may grant such additional time if significant infrastructure improvements are required to achieve compliance with said requirements.

B. A public water system holding a disinfection variance on November 6, 2013 shall comply with one of the following options by February 1, 2014:

1. implement continuous disinfection that complies with the requirements of §355.A, §357, §367.C, and §367.G of this Part;

2. request additional time for complying with the requirements of §355.A, §357, §367.C, and §367.G of this Part by submitting a written request, if significant infrastructure improvements are required to achieve compliance therewith or extraordinary circumstances exist with regard to the introduction of disinfection to the system. Such written request shall provide detailed justification and rationale for the additional time requested;

3. (This option shall be available only if the public water system's potable water distribution piping is utilized for onsite industrial processes.) notify the state health officer in writing that in lieu of implementing continuous disinfection, the PWS has provided, and will thereafter provide on a quarterly basis, notification to all system users, in a manner compliant with §1907 of this Part, that the system does not disinfect its water. The notification shall state that because the water is not disinfected, the water quality is unknown in regard to the *Naegleria fowleri* amoeba. A public water system selecting this option must sign an acknowledgement form, to be developed by the state health officer, stating that the public water system understands the risks presented by the lack of disinfection and that the public water system maintains responsibility for ensuring the safety of its water for end users; or

4. (This option shall be available only if the public water system's potable water distribution piping is utilized for onsite industrial processes.) request approval of an alternate plan providing water quality and public health protection equivalent to the requirements of §355.A and §357 of this Part. The state health officer may approve such a plan only if it is supported by peer reviewed, generally accepted research and science.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8)(13) and R.S. 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 41:

§363. Revocation of Variances

[formerly paragraph 12:021-5]

A. A variance from mandatory disinfection shall be revoked when a public water system has a bacteriological MCL violation. When a variance is revoked, the system shall install mandatory continuous disinfection as stated in §355 of this Part within the times specified in a compliance schedule submitted to and approved by the state health

officer. Such schedule shall be submitted within 10 days of receipt of notice of revocation.

B. Except for variances held by qualifying public water systems that comply with §361.B.3 of this Part or receive approval of an alternate plan under §361.B.4 of this Part, any variance concerning the mandatory disinfection requirements of §355 and/or §357 of this Part held by a public water system as of November 6, 2013 shall be automatically revoked on the later of:

1. February 1, 2014;
2. the expiration date of any additional time for compliance granted by the state health officer under §361.B.2 of this Part; or
3. the denial of a request for approval of an alternate plan submitted under §361.B.4 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8)(13) and R.S. 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1327 (June 2002), amended LR 41:

§367. Disinfectant Residual Monitoring and Record

Keeping

[formerly paragraph 12:021-7]

A. Disinfectant Residual Monitoring in Treatment Plant. A public water system (PWS) shall measure the residual disinfectant concentration in water being delivered to the distribution system at least once per day.

B. Disinfectant Residual Monitoring in Distribution System. A PWS shall measure the residual disinfectant concentration within the distribution system:

1. by sampling at the same points in the distribution system and at the same times that samples for total coliforms are required to be collected by the PWS under this Part;

2. by sampling at an additional number of sites calculated by multiplying 0.25 times the number of total coliform samples the PWS is required under this Part to take on a monthly or quarterly basis, rounding any mixed (fractional) number product up to the next whole number. These additional residual monitoring samples shall be taken from sites in low flow areas and extremities in the distribution system at regular time intervals throughout the applicable monthly or quarterly sampling period; and

3. by sampling at the site that represents the maximum residence time (MRT) in the distribution system at least once per day.

C. A PWS shall increase sampling to not less than daily at any site in the distribution system that has a measured disinfectant residual concentration of less than 0.5 mg/l free chlorine or 0.5 mg/l chloramine residual (measured as total chlorine) until such disinfectant residual concentration is achieved at such site.

D. The records of the measurement and sampling required under Subsections A and B of this Section shall be maintained on forms approved by the state health officer and shall be retained as prescribed in the national primary drinking water regulations, and shall be made available for review upon request by the state health officer.

E. Each PWS shall submit a written monitoring plan to the state health officer for review and approval. The monitoring plan shall be on a form approved by the state health officer and shall include all the total coliform and disinfectant residual monitoring sites required under this Section and §903.A of this Part. Each PWS shall also submit

a map of the distribution system depicting all total coliform and disinfectant residual monitoring sites required under this Section. The sites shall be identified along with a 911 street address (if there is no 911 street address, then the latitude/longitude coordinates shall be provided). A PWS in existence as of November 6, 2013 shall submit such a monitoring plan no later than January 1, 2014.

F. Chlorine residuals shall be measured in accordance with the analytical methods set forth in §1105.C of this Part.

G. Where a continuous chloramination (i.e., chlorine with ammonia addition) method is used, a nitrification control plan shall be developed and submitted to the state health officer. A PWS in existence as of November 6, 2013 shall submit such a nitrification control plan no later than March 1, 2014.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8)(13) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1327 (June 2002), amended LR 30:1195 (June 2004), LR 41:

Chapter 9. Louisiana Total Coliform Rule [formerly Appendix C]

§903. Coliform Routine Compliance Monitoring [formerly Coliform Routine Compliance Monitoring of Appendix C]

A. Public water systems shall collect routine total coliform samples at sites which are representative of water throughout the distribution system in accordance with a written monitoring plan approved by the state health officer. Each public water system (PWS) shall submit a written monitoring plan on a form approved by the state health officer. The monitoring plan shall include a minimum number of point of collection (POC) monitoring sites calculated by multiplying 1.5 times the minimum number of samples required to be routinely collected in accordance with Subsections C and D of this Section, rounding any mixed (fractional) number product up to the next whole number. The monitoring plan shall include a map of the system with each POC sampling site identified along with a 911 street address (if there is no 911 street address, then the latitude/longitude coordinates shall be provided). In accordance with requirements of Subsection E of this

Section, the plan shall also indicate how the PWS will alternate routine sampling between all of the approved POC sampling sites.

B. - D. ...

E. Unless the state health officer specifies otherwise, the public water supply shall collect routine samples at regular time intervals throughout the month and shall alternate routine sampling between all of the approved POC sites. Routine samples shall not be collected from the same POC more than once per month.

F. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8)(13) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1333 (June 2002), amended LR 41:

Chapter 11. Surface Water Treatment Rule Subchapter A. General Requirements and Definitions §1102. Relationship with this Part

A. In those instances where the requirements of this Chapter are stricter than or conflict with the requirements of this Part generally, a public water system utilizing surface water or ground water under the direct influence of surface water (GWUDISW) shall comply with the requirements of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8)(13) and R.S. 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 41:

§1105. Analytical Requirements

A. Analysis for total coliform, fecal coliform, or HPC which may be required under this Chapter shall be conducted by a laboratory certified by DHH to do such analysis. Until laboratory certification criteria are developed, laboratories certified for total coliform analysis by DHH are deemed certified for fecal coliform and HPC analysis.

B. - B.3. ...

C. Public water systems shall conduct analysis for applicable residual disinfectant concentrations in accordance with one of the analytical methods in Table 1.

Table 1				
Residual	Methodology	Standard Methods ¹	ASTM Methods ²	Other Methods
Free Chlorine	Amperometric Titration	4500-Cl D, 4500-Cl D-00	D 1253-03	
	DPD Ferrous Titrimetric	4500-Cl F, 4500-Cl F-00		
	DPD Colorimetric	4500-Cl G, 4500-Cl G-00		
	Syringaldazine (FACTS)	4500-Cl H, 4500-Cl H-00		
	On-line Chlorine Analyzer			EPA 334.0 ³
	Amperometric Sensor			ChloroSense ⁴
Total Chlorine	Amperometric Titration	4500-Cl D, 4500-Cl D-00	D 1253-03	
	Amperometric Titration (low level measurement)	4500-Cl E, 4500-Cl E-00		
	DPD Ferrous Titrimetric	4500-Cl F, 4500-Cl F-00		
	DPD Colorimetric	4500-Cl G, 4500-Cl G-00		
	Iodometric Electrode	4500-Cl I, 4500-Cl I-00		
	On-line Chlorine Analyzer			EPA 334.0 ³
	Amperometric Sensor			ChloroSense ⁴
Chlorine Dioxide	Amperometric Titration	4500-ClO ₂ C		
	DPD Method	4500-ClO ₂ D		
	Amperometric Titration II	4500-ClO ₂ E, 4500-ClO ₂ E-00		
	Lissamine Green Spectrophotometric			EPA 327.0 Rev 1.1 ⁵
Ozone	Indigo Method	4500-O ₃ B, 4500-O ₃ B-97		

1. All the listed methods are contained in the 18th, 19th, 20th, 21st, and 22nd Editions of Standard Methods for the Examination of Water and Wastewater; the cited methods published in any of these editions may be used.

2. Annual Book of ASTM Standards, Vol. 11.01, 2004; ASTM International; any year containing the cited version of the method may be used. Copies of this method may be obtained from ASTM International, 100 Barr Harbor Drive, P.O. Box C700 West Conshohocken, PA 19428-2959.

3. EPA Method 334.0. "Determination of Residual Chlorine in Drinking Water Using an On-line Chlorine Analyzer," August 2009. EPA 815-B-09-013. Available at http://epa.gov/safewater/methods/analyticalmethods_ogwdw.html.

4. ChloroSense. "Measurement of Free and Total Chlorine in Drinking Water by Palintest ChloroSense," September 2009. Available at <http://www.nemi.gov> or from Palintest Ltd, 21 Kenton Lands Road, PO Box 18395, Erlanger, KY 41018.

5. EPA Method 327.0, Revision 1.1, "Determination of Chlorine Dioxide and Chlorite Ion in Drinking Water Using Lissamine Green B and Horseradish Peroxidase with Detection by Visible Spectrophotometry," USEPA, May 2005, EPA 815-R-05-008. Available online at <http://www.epa.gov/safewater/methods/sourcalt.html>.

D. - E.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8)(13) and 40:5(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1337 (June 2002), amended LR 28:2516 (December 2002), LR 41:

Subchapter B. Treatment Technique Requirements and Performance Standards

§1113. Treatment Technique Requirements

A. - A.3. ...

4. the total reductions to be required by the DHH may be higher and are subject to the source water concentration of *Giardia lamblia*, viruses, and *Cryptosporidium*;

5. the residual disinfectant concentration in the water delivered to the distribution system is not less than 0.5 mg/l free chlorine or 0.5 mg/l total chlorine for more than 4 hours in any 24 hour period; and

6. the residual disinfectant concentration is not less than 0.5 mg/l free chlorine or 0.5 mg/l total chlorine in more than 5 percent of the samples collected each month from the distribution system for any two consecutive months.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and R.S. 40:5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1340 (June 2002), amended LR 28:2518 (December 2002), LR 35:1241 (July 2009), LR 41:

§1117. Non-Filtering Systems

A. - C.1. ...

a. A system shall demonstrate compliance with the inactivation requirements based on conditions occurring during peak hourly flow. Residual disinfectant measurements shall be taken hourly. Continuous disinfectant residual monitors are acceptable in place of hourly samples provided the accuracy of the disinfectant measurements are validated at least weekly in accord with §1109.B or C, as applicable, of this Chapter. If there is a failure in the continuous disinfectant residual monitoring equipment, the system shall collect and analyze a grab sample every hour in lieu of continuous monitoring.

b. ...

2. To avoid filtration, the system shall maintain minimum disinfectant residual concentrations in accordance with the requirements of §355 and §357 of this Part. Performance standards shall be as presented in §1119.B and C of this Chapter.

3. - 3.a. ...

b. an automatic shut off of delivery of water to the distribution system when the disinfectant residual level drops below 0.5 mg/l free chlorine residual or 0.5 mg/l chloramine residual (measured as total chlorine).

D. - D.7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 4 (A)(8)(13) and 40: 5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1341 (June 2002), amended LR 28:2520 (December 2002), LR 35:1242 (July 2009), LR 41:

§1119. Disinfection Performance Standards

A. ...

B. Except as otherwise specified by this Section and Chapter, disinfection treatment shall comply with the minimum standards and requirements set forth in §355.A and §357 of this Part.

C. - C.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 4 (A)(8)(13) and 40: 5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1341 (June 2002), amended LR 28:2522 (December 2002), LR 35:1242 (July 2009), LR 41:

Subchapter C. Monitoring Requirements

§1125. Disinfection Monitoring

A. ...

B. Disinfectant Residual Monitoring at Plant. To determine compliance with the performance standards specified in §1115 or 1119 of this Chapter, the disinfectant residual concentrations of the water being delivered to the distribution system shall be measured and recorded continuously. The accuracy of disinfectant measurements obtained from continuous disinfectant monitors shall be validated at least weekly in accord with §1109.B or C, as applicable, of this Chapter. If there is a failure of continuous disinfectant residual monitoring equipment, grab sampling every two hours shall be conducted in lieu of continuous monitoring, but for no more than five working days following the failure of the equipment. Failure to have the continuous monitoring equipment replaced or repaired and put back into continuous service following the five working days allowed herein shall be deemed to constitute a violation of this Chapter. Systems shall maintain the results of disinfectant residual monitoring for at least 10 years.

C. Small System Disinfectant Residual Monitoring at Plant. Suppliers serving fewer than 3,300 people may collect and analyze grab samples of the water being delivered to the distribution system for disinfectant residual determination each day in lieu of the continuous monitoring, in accordance with Table 4 of this Chapter, provided that any time the residual disinfectant falls below 0.5 mg/l free chlorine or 0.5 mg/l chloramine residual (measured as total chlorine), the supplier shall take a grab sample every two hours until the residual concentrations is equal to or greater than 0.5 mg/l free chlorine or 0.5 mg/l chloramine residual (measured as total chlorine).

* * *

D. Disinfectant Residual Monitoring in Distribution System. The residual disinfectant concentrations in the distribution system shall be measured, recorded, and maintained in accordance with §367.B, C, D and E of this Part. A monitoring plan shall be developed, submitted, reviewed, and approved in accordance with §367.E of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8)(13) and R.S. 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1342 (June 2002), amended LR 28:2523 (December 2002), LR 35:1243 (July 2009), LR 41:

Subchapter E. Reporting

§1133. DHH Notification

A. - A.4. ...

5. the disinfectant residual measured from any sample collected from water being delivered to the distribution system is found to be less than 0.5 mg/l free chlorine or 0.5 mg/l chloramine residual (measured as total chlorine). The notification shall indicate whether the disinfectant residual was restored to at least 0.5 mg/l free chlorine or 0.5 mg/l chloramine residual (measured as total chlorine) within 4 hours;

A.6. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8)(13) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:2525 (December 2002), amended LR 35:1244 (July 2009), LR 41:

§1135. Monthly Report

A. - B.5. ...

C. Disinfection Monitoring Results. The monthly report shall include the following disinfection monitoring results:

1. the date and duration of each instance when the disinfectant residual in water supplied to the distribution system is less than 0.5 mg/l free chlorine or 0.5 mg/l chloramine residual (measured as total chlorine) and when the DHH was notified of the occurrence;

2. the following information on samples taken from the distribution system:

a. the number of samples where the disinfectant residual is measured; and

b. the number of measurements where the disinfectant residual is less than 0.5 mg/l free chlorine or 0.5 mg/l chloramine residual (measured as total chlorine).

D. - F.2.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8)(13) and R.S. 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:2526 (December 2002), amended LR 35:1244 (July 2009), LR 41:

Subchapter F. Public Notification

§1139. Consumer Notification

A. Treatment Technique/Performance Standard Violations. The supplier shall notify persons served by the system whenever there is a failure to comply with the treatment technique requirements specified in §§1113 or 1141, or a failure to comply with the performance standards specified in §§1115, 1117, 1119.A or 1119.C of this Chapter. The notification shall be given in a manner approved by the DHH, and shall include the following mandatory language.

A.1. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8)(13) and R.S. 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:2527 (December 2002), amended LR 35:485 (March 2009), LR 35:1246 (July 2009), LR 41:

Chapter 15. Approved Chemical Laboratories/Drinking Water

Subchapter A. Definitions and General Requirements

§1503. General Requirements

A. - C. ...

D. - D.1. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8)(13) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 30:1199 (June 2004), amended LR 41:

Interested persons may submit written comments to Jake Causey, Chief Engineer, Engineering Services Section, Office of Public Health, P.O. Box 4489, Baton Rouge, LA 70821-4489. He is responsible for responding to inquiries regarding this Emergency Rule.

Kathy H. Kliebert
Secretary
and
Jimmy Guidry, M.D.
State Health Officer

1503#004

DECLARATION OF EMERGENCY

Department of State Elections Division

Merit Evaluation for Registrars of Voters
(LAC 31:II.Chapter 1)

The Department of State, pursuant to the emergency provisions of the Administrative Procedure Act (R.S. 49:953(B)), and under the authority of R.S. 18:18, R.S. 18:55, R.S. 18:59, and R.S. 36:742, has adopted an Emergency Rule to amend LAC 31:II.Chapter 1, Section 107 to modify the procedure for merit evaluations of the registrars of voters, adopt LAC 31:II.Chapter 1, Section 108 to codify the appeal process for merit evaluations of the registrars of voters, and amend LAC 31:II.Chapter 1, Section 109 to modify the procedure for merit evaluations of the chief deputies and confidential assistants on an emergency basis. The adoption of the Rule on an emergency basis is necessary, as the registrars of voters will be sent their merit evaluation forms on November 1, the evaluations will be due to the Department of State on December 15, and the appeals process needs to be codified to give the registrars of voters the opportunity to appeal evaluations that result in the registrars of voters not receiving their merit increases.

The initial Emergency Rule became effective on October 24, 2014 and will remain in effect until February 20, 2015. This new Emergency Rule shall become effective on February 18, 2015 and shall remain in effect for the maximum period allowed under the Administrative Procedure Act or until final rules are promulgated in accordance with law, whichever occurs first.

Title 31
ELECTIONS

Part II. Voter Registration and Voter Education

Chapter 1. Registrar of Voters

§107. Merit Evaluation for the Registrar of Voters

A. The secretary of state hereby designates the director of registration in the Department of State to conduct the annual evaluation of each parish registrar of voters by reviewing the completed evaluation and data submitted by each registrar of voters. The evaluation will consider the timely performance of the registrar's job responsibilities as required by title 18 of the *Louisiana Revised Statutes*. Upon completion of the rating of a registrar by the director of registration, the director of registration shall submit the evaluation to the commissioner of elections for review and either approval or disapproval depending on the information submitted. If the commissioner of elections does not approve the rating given by the director of registration, the registrar will be given the rating recommended by the commissioner of elections. The registrar's evaluation is then submitted to the Department of State Human Resources office. If the registrar receives an "excellent" rating, Human Resources will process the merit increase. If the registrar receives a "satisfactory" rating, Human Resources will not process the merit increase.

B. Annually, the criteria and procedure for the merit evaluation shall be determined by the secretary of state or his designee in conjunction with the Registrar of Voters Association. The secretary of state or his designee shall prepare written instructions and forms to be utilized for the evaluation. Evaluation forms with instructions shall be submitted to the registrars of voters no later than November 1 for completion. The form shall include mandated duties required of the registrar's office in accordance with title 18 of the *Louisiana Revised Statutes* and other applicable laws with input from the Board of Review for Evaluation of the Registrar of Voters Association; however, the form is not intended to be all inclusive of all of the duties mandated in title 18 of the *Louisiana Revised Statutes* and other applicable laws. If a registrar receives an "excellent" rating, the registrar is eligible for a merit increase in January. If a registrar does not receive an "excellent" rating, the registrar will be rated "satisfactory" and is not eligible to receive a January merit increase. Also, if a registrar is a certified elections registration administrator (CERA) and does not receive an "excellent" rating, the registrar is not eligible to receive the 7 percent CERA certification pay increase for that year pursuant to R.S. 18:59.4.

C. The parish registrar of voters will have until December 15 to submit a completed evaluation form with supporting documentation to the Department of State.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18, R.S. 18:55, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 34:705 (April 2008), amended LR 41:

§108. Appeal of Merit Evaluation for the Registrar of Voters

A. Submission of a Request for Appeal

1. A registrar of voters who does not receive an "excellent" rating on his or her annual merit evaluation may appeal that rating to the Registrars of Voters Evaluation Appeals Committee.

2. The request for appeal shall be in writing and shall be postmarked or received by the human resources director in the Department of State, or the Human Resources director's designee, no later than January 30.

3. The request for appeal shall explain the reasons for the request and may provide supporting documentation.

4. If the request for appeal is timely and contains the required explanation, the human resources director shall submit a notification of the request to the chairperson of the Registrars of Voters Evaluation Appeals Committee and to the director of registration. The notification of request for appeal shall include copies of the written request of the registrar of voters, the original annual merit evaluation, and any supporting documentation provided by the registrar of voters with his or her written request for appeal.

5. The Department of State grievance process shall not be used to review or reconsider evaluations or a procedural violation of the evaluation process.

B. The Registrars of Voters Evaluation Appeals Committee

1. All written requests for appeal of annual merit evaluations that meet the requirements of Subsection A of this Section shall be considered by the Registrars of Voters Evaluation Appeals Committee.

2. The Registrars of Voters Evaluation Appeals Committee shall consist of seven members. Three members shall be registrars of voters appointed by the Registrar of Voters Association. Four members shall be appointed by the secretary of state, one of which shall be a registrar of voters who shall act as chairperson of the committee. The chairperson shall vote only to break a tie. The director of registration and the commissioner of elections shall not be appointed to the committee.

3. The chairperson shall convene a meeting of the Registrars of Voters Evaluation Appeals Committee within 15 days of receipt of notification of the request for appeal to discuss the request and render a decision regarding the rating. The committee may vote to uphold the "satisfactory" rating or to change the rating to "excellent".

4. The chairperson of the committee shall give written notice of the committee's decision to the affected registrar of voters, the director of registration, and the human resources director within 15 days.

C. The annual merit evaluation form, the written request for appeal of the registrar of voters, the written notice of the committee's decision, and all supporting documentation shall be maintained in the official confidential personnel file of the registrar of voters on file in the Department of State Human Resources office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18, R.S. 18:55, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 41:

§109. Merit Evaluations of the Chief Deputy and Confidential Assistant

A. The parish registrar of voters shall perform the annual evaluation of the chief deputy and confidential assistant.

B. Annually, the criteria and procedure for the merit evaluation shall be determined by the Registrar of Voters Association. The association shall prepare written instructions and forms to be utilized for the evaluation. The forms and instructions shall be submitted to the registrars of

voters for reviewing the chief deputy and confidential assistant's performance no later than November 1.

C. The parish registrar of voters shall be responsible for evaluating his or her chief deputy and confidential assistant. These evaluations shall be submitted to the Department of State Human Resources office no later than December 15 of each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18, R.S. 18:59, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 34:705 (April 2008), amended LR 41:

Tom Schedler
Secretary of State

1503#001

Rules

RULE

Department of Children and Family Services Economic Stability Section

Access to Child Care for Homeless Families (LAC 67:III.Chapter 51)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(A), the Department of Children and Family Services (DCFS) has amended LAC 67:III, Subpart 12, Child Care Assistance Program, Chapter 51, Child Care Assistance Program, Subchapter A, Administration, Conditions of Eligibility, and Funding, Section 5102, Definitions and Section 5103, Conditions of Eligibility, and Subchapter B, Child Care Providers, Section 5109, Payment. Adoption is pursuant to the authority granted to the department by the child care and development fund (CCDF) in 45 CFR 98.11.

Section 5102 has been amended to include definitions relative to homeless families. Section 5103 has been amended to conform to the requirements of the Improving Access to Child Care for Homeless Louisiana Families Act, R.S. 46:1443 et seq. Section 5109 has been amended to authorize payments to child care providers on behalf of homeless families.

Title 67

SOCIAL SERVICES

Part III. Economic Stability

Subpart 12. Child Care Assistance Program

Chapter 51. Child Care Assistance Program

Subchapter A. Administration, Conditions of Eligibility, and Funding

§5102. Definitions

* * *

Homeless—lacking a fixed, regular, and adequate nighttime residence. The term “homeless” shall encompass children and youths experiencing the particular conditions and situations provided for in subtitle B of title VII of the McKinney-Vento Education for Homeless Children and Youth Act, 42 U.S.C. 11434a(2).

* * *

Seeking Employment—register for work with Louisiana Workforce Commission (LWC) by creating a helping individuals reach employment (HiRE) account and by maintaining an active work registration within their HiRE account.

* * *

Transitional Living Program—any residential program or facility providing housing to homeless people, including but not limited to: emergency shelters; runaway and homeless youth residential programs or facilities; programs for parenting youth; programs for individuals who are fleeing domestic violence, dating violence, sexual assault, or stalking; transitional housing programs; and prisoner reentry programs.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193, 7 CFR Part 273, ACF Guidance: ACYF-IM-CC-05-03, P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:2826 (December 2000), amended LR 27:1932 (November 2001), LR 28:1490 (June 2002), LR 29:43 (January 2003), LR 29:189 (February 2003), LR 30:1484 (July 2004), LR 31:2262 (September 2005), LR 32:1464 (August 2006), LR 36:845 (April 2010), LR 36:1278 (June 2010), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2535 (November 2010), amended by the Department of Children and Family Services, Economic Stability Section, LR 41:531 (March 2015).

§5103. Conditions of Eligibility

A. - A.1. ...

B. Low-income families not receiving FITAP cash assistance, including former FITAP recipients who are given priority consideration, must meet the following eligibility criteria.

1. - 3. ...

4. Effective September 1, 2002, unless disabled as established by receipt of Social Security Administration disability benefits, supplemental security income, Veterans' Administration disability benefits for a disability of at least 70 percent, or unless disabled and unable to care for his/her child(ren) as verified by a doctor's statement or by worker determination, the TEMP must be:

a. effective June 1, 2011, employed for a minimum average of 30 hours per week and all countable employment hours must be paid at least at the federal minimum hourly wage; or

b. attending a job training or educational program for a minimum average of, effective June 1, 2011, 30 hours per week (attendance at a job training or educational program must be verified, including the expected date of completion); or

c. engaged in some combination of employment which is paid at least at the federal minimum hourly wage, or job training, or education as defined in Subparagraph B.4.b of this Section that averages, effective June 1, 2011, at least 30 hours per week;

d. Exception: a household in which all of the members described in Paragraph B.4 of this Section meet the disability criteria is not eligible for child care assistance unless one of those members meets, effective June 1, 2011 the required minimum average of 30 activity hours per week.

e. Exception: The employment and training activity requirements may be waived for a period of 180 days from the effective date of certification for homeless parents or persons acting as parents who demonstrate that they are seeking employment or participating in a transitional living program as defined in Section 5102. There is a six-month lifetime maximum for this exception.

5. - 7.c. ...

C. The family requesting child care services must provide the information and verification necessary for determining eligibility and benefit amount, and meet appropriate eligibility requirements established by the state. However, the verification of a child's age and/or immunizations may be waived for a period of 90 days from the effective date of certification for a household in which all of the members meet the homeless definition described in Section 5102, as long as all other eligibility factors described in Section 5103, Subsection B, Paragraphs 1-3 and 5-7 are met.

D. Cases eligible for payment may be assigned a certification period of up to twelve months. However, cases based on §5103.B.4.e that have waived the 30 hours per week employment and training requirement for a homeless family shall be assigned a certification period of six months.

E. Effective October 1, 2004, all children receiving services must be age-appropriately immunized according to the schedule of immunizations as promulgated by the Louisiana Office of Public Health, or be in the process of receiving all age-appropriate immunizations. No person is required to comply with this provision if that person or his/her parent or guardian submits a written statement from a physician stating that the immunization procedure is contraindicated for medical reasons, or if the person or his/her parent or guardian objects to the procedure on religious grounds. However, the verification of a child's age and/or immunizations may be waived for a period of 90 days from the effective date of certification for a household in which all of the members meet the homeless definition described in Section 5102, as long as all other eligibility factors described in Section 5103, Subsection B, Paragraphs 1-3 and 5-7 are met.

F. CCAP households must participate in the system designated by the agency for capturing time and attendance. This process may include finger imaging for the head of household and their household designees. The agency will determine the maximum number of household designees allowed on a CCAP case. Finger imaging is a requirement to participate in CCAP if the provider chosen by the client utilizes this as the mechanism for capturing time and attendance. Exceptions may be granted by the Executive Director of Economic Stability or his or her designee on a case-by-case basis.

G. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L.104-193, Act 58 2003 Reg. Session, ACF Guidance: ACYF-IM-CC-05-03.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:356 (February 1998), amended LR 25:2444 (December 1999), LR 26:2827 (December 2000), LR 27:1932 (November 2001), LR 28:1490 (June 2002), LR 29:43 (January 2003), LR 29:1106 (July 2003), LR 29:1833 (September 2003), LR 30:496 (March 2004), LR 30:1487 (July 2004), LR 31:101 (January 2005), LR 31:2263 (September 2005), LR 32:1464 (August 2006), LR 33:506 (March 2007), LR 34:692 (April 2008), LR 36:845 (April 2010), LR 36:1278 (June 2010), repromulgated LR 36:1767 (August 2010), amended by the Department of Children and Family Services, Division of Programs, LR 37:1374 (May 2011), amended by the Department of Children and Family Services, Division of

Programs, Economic Stability Section, LR 38:3103 (December 2012), amended by the Department of Children and Family Services, Economic Stability Section, LR 41:531 (March 2015).

Subchapter B. Child Care Providers

§5109. Payments

A. ...

B. Determination of Payments

1. Payments to providers on behalf of non-FITAP recipients with the exception of homeless families who are exempt from employment and training requirements as defined in §5103.B.4.e will be a percentage of the lesser of:

a. the provider's actual charge multiplied by authorized service days or authorized service hours; or

b. the state maximum rate for authorized services effective January 1, 2007, and with the addition of rates for class M centers effective October 30, 2009, as indicated below.

Provider Type	Regular Care	Regular Care for Infants/Toddlers (under age 3)	Special Needs Care Incentive	Special Needs Care Incentive for Infants/Toddlers (under age 3)
Class A	\$17.50	\$18.50	\$21.65	\$22.65
Class E	\$15.00	\$16.00	\$18.50	\$19.50
Class R	\$15.00	\$16.00	\$18.50	\$19.50
Class U	\$14.50	\$15.50	\$17.90	\$18.90
Class M	\$17.50	\$18.50	\$21.65	\$22.65

2. Payments to providers on behalf of FITAP recipients and homeless families who are exempt from employment and training requirements as defined in §5103.B.4.e will be the lesser of:

a. the provider's actual charge multiplied by authorized service days or authorized service hours; or

b. the state maximum rate for authorized services effective January 1, 2007, as indicated below.

Provider Type	Regular Care	Regular Care for Infants/Toddlers (under age 3)	Special Needs Care Incentive	Special Needs Care Incentive for Infants/Toddlers (under age 3)
Class A	\$17.50	\$18.50	\$21.65	\$22.65
Class E	\$15.00	\$16.00	\$18.50	\$19.50
Class R	\$15.00	\$16.00	\$18.50	\$19.50
Class U	\$14.50	\$15.50	\$17.90	\$18.90
Class M	\$17.50	\$18.50	\$21.65	\$22.65

B.3. - F. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and P.L. 104-193, ACF Guidance: ACYF-IM-CC-05-03.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:357 (February 1998), amended LR 25:2445 (December 1999), LR 26:2828 (December 2000), LR 27:1933 (November 2001), LR 28:1491 (June 2002), LR 29:1834 (September 2003), LR 30:1485 (July 2004), repromulgated LR 30:2078 (September 2004), amended LR 31:2265 (September 2005), LR 32:1465 (August 2006), LR 32:2097 (November 2006), LR 33:507 (March 2007), LR 34:692 (April 2008), LR 36:555 (March 2010), LR 36:847 (April 2010), LR 36:1278 (June 2010), amended by the Department of Children and Family Services, Economic Stability Section, LR 37:3491

(December 2011), amended by the Department of Children and Family Services, Division of Programs, Economic Stability Section, LR 38:3104 (December 2012), amended by the Department of Children and Family Services, Economic Stability Section, LR 41:532 (March 2015),

Suzu Sonnier
Secretary

1503#027

RULE

Department of Children and Family Services Economic Stability Section

Supplemental Nutritional Assistance Program (SNAP) (LAC 67:III.1942)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(A), the Department of Children and Family Services (DCFS) has adopted LAC 67:III, Subpart 3, Supplemental Nutritional Assistance Program (SNAP), Chapter 19, Certification of Eligible Households, Subchapter G, Work Requirements, Section 1942, Workforce Training and Education Pilot Initiative.

Section 1942 adopts provisions necessary to establish a pilot initiative in Tangipahoa parish for the purpose of enhancing workforce readiness and improving employment opportunities for SNAP recipients who are unemployed or underemployed able-bodied adults without dependents (ABAWDs).

Pursuant to the authority granted to the department by the Food and Nutrition Services (FNS), the department considers these amendments necessary to comply with Act 622 of the 2014 Regular Session of the Louisiana Legislature.

Title 67

SOCIAL SERVICES

Part III. Economic Stability

Subpart 3. Supplemental Nutritional Assistance Program (SNAP)

Chapter 19. Certification of Eligible Households

Subchapter G. Work Requirements

§1942. Workforce Training and Education Pilot Initiative

A. The department shall administer a workforce training and education pilot initiative within SNAP for the purpose of enhancing workforce readiness and improving employment opportunities for SNAP recipients who are unemployed or underemployed able-bodied adults without dependents (ABAWDs). Individuals to be served by the pilot initiative shall include, exclusively, all ABAWDs residing in Tangipahoa parish who are not exempt by provisions of this Section.

B. Individuals are ineligible to continue to receive SNAP benefits if, during any 36-month period after February 2015, they received SNAP benefits for at least three months (consecutive or otherwise) while that individual did not either:

1. work an average of 20 hours per week;
2. participate in and comply with a Job Training Partnership Act Program, Trade Adjustment Act Program, or Employment and Training Program (other than a job search

or job search training program) for 20 hours or more per week; or

3. participate in and comply with a workfare program.

C. An individual is exempt from this requirement if the individual is:

1. under age 18, or 50 years of age or older;
2. medically certified as physically or mentally unfit for employment;
3. a parent of a household member under age 18, even if the household member who is under age 18 does not receive SNAP benefits;
4. residing in a household where a household member is under age 18, even if the household member who is under age 18 does not receive SNAP benefits;
5. pregnant;
6. meeting one or more of the following criteria relative to educational advancement:

- a. in the previous six months, the individual enrolled in an accredited postsecondary educational institution that grants associate or baccalaureate degrees;

- b. in the previous six months, the individual enrolled in a program designed to lead to a high school diploma;

- c. in the previous six months, the individual enrolled in a general education development test preparation course;

- d. in the previous six months, the individual earned a high school diploma or a general education development certificate;

7. satisfactorily participating or satisfactorily participated in LaJET (a SNAP employment and training program) in the previous six months; or

8. otherwise exempt from work registration requirements.

D. Regaining Eligibility for Assistance

1. Individuals denied eligibility under the pilot initiative rule can regain eligibility if during a 30-day period the individual:

- a. works 80 hours or more;

- b. participates in and complies with a Job Training and Partnership Act Program, Trade Adjustment Assistance Act Program, or Employment and Training Program (other than a job search or job search training program) for 80 hours or more;

- c. participates in and complies with a workfare program (under Section 20 of the Food and Nutrition Act of 2008 or a comparable state or local program) for 80 hours or more.

2. An individual who regained eligibility and who is no longer fulfilling the work requirement is eligible for three consecutive countable months one time in any 36-month period, starting on the date the individual first notifies the agency that he or she is no longer fulfilling the work requirement, unless the individual has:

- a. met one or more of the following criteria relative to educational advancement:

- i. in the previous six months, the individual enrolled in an accredited postsecondary educational institution that grants associate or baccalaureate degrees;

- ii. in the previous six months, the individual enrolled in a program designed to lead to a high school diploma;

iii. in the previous six months, the individual enrolled in a general education development test preparation course;

iv. in the previous six months, the individual earned a high school diploma or a general education development certificate;

b. satisfactorily participated in LaJET (a SNAP employment and training program) in the previous six months; or

c. otherwise been exempted from work registration requirements.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, P.L. 110-246, and Act 622 of the 2014 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Economic Stability Section, LR 41:533 (March 2015).

Suzy Sonnier
Secretary

1503#029

RULE

Department of Children and Family Services Economic Stability Section

TANF Use of Benefits and Fines for Retailers (LAC 67:III.405)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(A), the Department of Children and Family Services (DCFS) has amended LAC 67:III, Subpart 1, General Administrative Procedures, Chapter 4, Electronics Benefits Issuance System, Section 405, Participation of Retailers.

Pursuant to Louisiana's temporary assistance for needy families (TANF) block grant, amendment of Section 405 is necessary to prohibit retailers from accepting the electronic benefits transfer card for prohibited goods and services, to prohibit certain retailers from participation in the cash assistance electronic benefits transfer system, to subject noncompliant retailers to civil fines, and to establish procedures regarding notice of violation and appeal process.

The department considers these amendments necessary to comply with Act 842 of the 2014 Regular Session of the Louisiana Legislature.

Title 67

SOCIAL SERVICES

Part III. Economic Stability

Subpart 1. General Administrative Procedures

Chapter 4. Electronics Benefits Issuance System

§405. Participation of Retailers (Effective October 1, 1997)

[Formerly §403]

A. Retail establishments which are U.S. Department of Agriculture, Food and Nutrition Service (FNS), authorized Supplemental Nutrition Assistance Program benefit redemption points must be allowed the opportunity to participate in the state EBT system. FNS approved retailer may choose to accept EBT cards for cash transactions (FITAP and KCSP). All other retail establishments may participate in the cash access component of the system

unless prohibited by R.S. 46:231.14(B) by contacting their commercial debit/credit processor to request to participate in cash access. Retailers participating in cash access will be charged standard commercial connection, lease, and/or transaction fees to interface with the EBT system.

B. In accordance with R.S. 46:231.14, when a retailer or other business establishment is cited for violations of any provision of R.S. 46:231.14(A) or R.S. 46:231.14(B) regarding prohibited retailers, goods and services, the department shall take administrative actions as follows.

1. Fines. Any retailer or other business establishment that violates these regulations shall be subject to the following civil fines:

- a. \$500 for the first violation;
- b. \$1,000 for the second violation;
- c. \$2,500 for the third violation and each violation thereafter.

2. Notice. When a fine is imposed under these regulations, the department shall notify the retailer or other business establishment by letter that a fine has been assessed due to violations cited at the establishment and the right to appeal. The notification may be sent by certified mail or hand delivered to the establishment. If the owner is not present at the establishment, delivery of the written reason(s) for such action may be made to any staff of the establishment. Notice to a staff shall constitute notice to the establishment of such action and the reasons therefore. The letter shall specify the dates and the violation cited for which the fine(s) shall be imposed. Fines are due within 30 calendar days from the date of receipt of the letter unless the retailer or other business establishment requests an appeal.

3. Appeal Procedure for Fines. An appeal process is established by the department in the event the retailer disagrees with the civil fines.

a. The retailer or business establishment shall have 15 calendar days from the receipt of the notice to appeal the decision to the DCFS Appeals Section. A request for appeal shall include a copy of the letter from the department that notes the reasons for assessment of the fine and the specific areas of the decision the appellant believes to be erroneous and/or the specific reasons the decision is believed to have been reached in error, and shall be mailed to Department of Children and Family Services, Appeals Section, P.O. Box 2944, Baton Rouge, LA 70821-9118.

b. The DCFS Appeals Section shall notify the Division of Administrative Law (DAL) of receipt of an appeal request. DAL shall conduct a hearing in accordance with the Administrative Procedure Act within 30 days of the receipt thereof, and shall render a decision not later than 60 days from the date of the hearing. The appellant will be notified by letter from DAL of the decision, either affirming or reversing the department's decision.

c. If the retailer or business establishment filed a timely appeal and the department's assessment of fines is affirmed by an administrative law judge of the DAL, the fine shall be due within 30 calendar days after mailing notice of the final ruling of the administrative law judge or, if a rehearing is requested, within 30 calendar days after the rehearing decision is rendered. The retailer or business establishment shall have the right to seek judicial review of any final ruling of the administrative law judge as provided in the Administrative Procedure Act. If the appeal is

dismissed or withdrawn, the fines shall be due and payable within seven calendar days of the dismissal or withdrawal. If a judicial review is denied or dismissed, either in district court or by a court of appeal, the fines shall be due and payable within seven calendar days after the retailer or business establishment's suspensive appeal rights have been exhausted.

d. If the retailer or business establishment does not appeal within 15 calendar days of receipt of the department's notice, the fine is due within 30 calendar days of receipt of the department's notice of the fine and shall be mailed to Department of Children and Family Services, Fraud and Recovery Unit, P.O. Box 91147, Baton Rouge, LA 70821-9147. If the retailer or business establishment files a timely appeal, the fines shall be due and payable on the date set forth in §405.B.3.c. If the retailer or business establishment withdraws the appeal, the fine is payable within seven calendar days of the withdrawal or on the original date that the fine was due, whichever is later.

4. Collection. If the retailer or business establishment does not pay the fine within the specified timeframe, the department shall pursue civil court action to collect the fines, together with all costs of bringing such action, including travel expenses and reasonable attorney fees. Interest shall begin to accrue at the current judicial rate on the day following the date on which the fines become due and payable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:106 (January 1998), amended LR 33:1878 (September 2007), repromulgated LR 33:2204 (October 2007), amended by the Department of Children and Family Services, Economic Stability Section, LR 41:534 (March 2015).

Suzy Sonnier
Secretary

1503#028

RULE

Board of Elementary and Secondary Education

Bulletin 1530—Louisiana's IEP Handbook for Students with Exceptionalities—Alternate Assessments (LAC 28:XCVII.503 and 505)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has adopted revisions to *Bulletin 1530—Louisiana's IEP Handbook for Students with Exceptionalities*: §503, Types of Alternate Assessments; and §505, Alternate Assessment Participation Criteria. The Elementary and Secondary Education Act (ESEA) allows states to assess one percent of the student population on an alternate assessment based on alternate achievement standards. In Louisiana, this assessment is known as the Louisiana Alternate Assessment, level 1, or the LAA 1. ESEA stipulates that only students with the most significant cognitive disabilities may be assessed on alternate achievement standards, however, the federal regulations give states the responsibility of developing criteria to define this population. After discussions with parents, educators,

advocates, the Special Education Advisory Panel, and the Superintendents' Advisory Council, the LDE recommends these revisions to the LAA 1 participation criteria.

Title 28

EDUCATION

Part XCVII. Bulletin 1530—Louisiana's IEP Handbook for Students with Exceptionalities

Chapter 5. Participation in Statewide Assessments

§503. Types of Alternate Assessments

A. LEAP alternate assessment, level 1 (LAA 1), was developed for students with disabilities who are served under IDEA for whom there is evidence that the student has a significant cognitive disability. LAA 1 is a performance-based assessment designed for students whose instructional program is aligned with the Louisiana extended standards.

B. LEAP alternate assessment, level 2 (LAA 2) based on modified academic achievement standards, was developed for students with persistent academic disabilities who are served under IDEA to participate in academic assessments that are sensitive to measuring progress in their learning. There is evidence the student is having significant academic difficulties in English language arts, reading and/or mathematics. LAA 2 is a criterion-referenced assessment designed for students whose instructional program is aligned with the Louisiana content standards.

1. A student who meets the LAA 2 participation criteria may test in all or in one or more content areas of LAA 2, based on the determination of the IEP team. The IEP team may decide that the student will participate in the LAA 2 assessment in one or more content areas and at the same time participate in the regular statewide assessment (iLEAP/LEAP/GEE) for the remaining content areas required at the student's enrolled grade.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:2343 (November 2009), amended LR 41:535 (March 2015).

§505. Alternate Assessment Participation Criteria

A. LEAP Alternate Assessment, Level 1 (LAA1)

1. The student has a disability that significantly impacts cognitive function and/or adaptive behavior. This may be demonstrated in the following ways.

a. For students who have not completed the fifth grade, an eligible student is functioning three or more standard deviations below the mean in cognitive functioning and/or adaptive behavior.

b. For students who have completed fifth grade, an eligible student is functioning 2.3 or more standard deviations below the mean in cognitive functioning and/or adaptive behavior.

c. Students who have completed the fifth grade functioning between 2.0 and 2.29 or more standard deviations below the mean in cognitive functioning and/or adaptive behavior may be eligible for LAA 1 participation if the IEP team provides additional empirical evidence an LAA 1 identification is appropriate for the student.

2. The student requires extensive modified instruction aligned with the Louisiana extended standards to acquire, maintain, and generalize skills.

3. The decision to include the student in LAA 1 is not solely based on the following:

a. student's placement;

- b. excessive or extended absences;
- c. disruptive behavior;
- d. English language proficiency;
- e. student's reading level;
- f. student's disability according to Bulletin 1508;
- g. social, cultural, and/or economic differences;
- h. anticipated impact on school performance scores;
- i. administrative decision;
- j. expectation that the student will not perform well on the LEAP, iLEAP, GEE or LAA 2.

B. - B.4.j. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:2343 (November 2009), amended LR 37:886 (March 2011), LR 41:535 (March 2015).

Shan N. Davis
Executive Director

1503#002

RULE

Department of Environmental Quality Office of the Secretary Legal Division

Environmental Assessment—Reissued Permits (LAC 33:IX.2905)(WQ090)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Water Quality regulations, LAC 33:IX.2905.B (WQ090).

This Rule identifies facilities and permit changes considered minor for the purposes of R.S. 30:2018 when they are associated with permit renewal applications. This Rule also provides the department flexibility with respect to classification of additional changes as minor during the permit renewal process. It will clearly specify when an environmental assessment should accompany the reissuance of an existing permit. The basis and rationale of this Rule are to clarify what constitutes a minor modification for the purposes of R.S. 30:2018(A) and (G). This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33

ENVIRONMENTAL QUALITY

Part IX. Water Quality

Subpart 2. The Louisiana Pollutant Discharge Elimination System (LPDES) Program

Chapter 29. Transfer, Modification, Revocation and Reissuance, and Termination of LPDES Permits

§2905. Minor Modifications of Permits

A. - A.8. ...

B. In addition to the modifications identified in Paragraphs A.1-8 of this Section, the following changes

associated with renewal applications shall be considered minor modifications for the purposes of R.S. 30:2018(E)(4):

1. changes to existing outfall descriptions;
2. changes to production or flow rate increases achieved through better efficiency or increased demand without the construction or addition of new unit(s) or outfall(s);
3. the addition of outfalls previously permitted under another LPDES permit;
4. the addition of waste load allocations assigned by total maximum daily loads or Clean Water Act §303(d) impairment; and
5. any other changes determined to be minor by the administrative authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:46 (January 2001), repromulgated LR 30:231 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2431 (October 2005), LR 35:654 (April 2009), amended by the Office of the Secretary, Legal Division, LR 41:536 (March 2015).

Herman Robinson, CPM
Executive Counsel

1503#018

RULE

Office of the Governor Licensing Board for Contractors

Construction Management (LAC 46:XXIX.119)

In accordance with the provisions of R.S. 49:950 et seq., which is the Administrative Procedure Act, and through the authority granted in R.S. 37:2150-2192, which is the contractor licensing law, the Licensing Board for Contractors (LSLBC) hereby amends and adopts its rules and regulations regarding contracting matters under the jurisdiction of the LSLBC.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXIX. Contractors

Chapter 1. General Provisions

§119. Construction Management

A. Any person, company or entity who undertakes, attempts to, or submits a price or bid or offer to perform work in construction management or program management whose scope of authority and responsibility includes supervision, oversight, direction, or in any manner assuming charge of the construction services provided to an owner by a contractor or contractors in excess of \$50,000 must possess a license from this board in the major classification of building construction or heavy construction or highway, street, and bridge construction or municipal and public works construction. Any licensed contractor with any of these major classifications shall be able to bid and perform any such project specified for construction and/or program management within the scope of the classification(s) they

hold. If a program manager whose scope of authority and responsibilities does not include any of the above stated tasks, and who does not subcontract actual construction work, that program manager does not need a contractor's license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2192.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Licensing Board for Contractors, LR 41:536 (March 2015).

Michael McDuff
Executive Director

1503#016

RULE

Office of the Governor Office of Financial Institutions

Lender Education (LAC 10:XI.Chapter 11)

Under the authority of and in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., R.S. 9:3554(A)(5), R.S. 9:3554(B), and R.S. 9:3578.8(A) and (B), the commissioner of the Office of Financial Institutions has adopted the following Rule to provide for the education of lender personnel which engage in the business of making deferred presentment transactions or small loans.

Title 10

FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES AND UCC

Part XI. Consumer Credit

Chapter 11. Lender Education

§1101. Application

A. This Chapter applies to all persons licensed by the commissioner pursuant to the Louisiana consumer credit law (LCCL) and the Louisiana Deferred Presentment and Small Loan Act (LDPSLA) who engage in the business of making small loans and deferred presentment transactions pursuant to the LDPSLA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950 et seq., R.S. 9:3554(A)(5), R.S. 9:3554(B), and R.S. 9:3578.8(A) and (B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 41:537 (March 2015).

§1103. Definitions

A. Unless the context otherwise requires, as determined by the commissioner in his discretion, all terms used in this Chapter 11 shall have the same meanings as in the Louisiana consumer credit law, (LCCL), R.S. 9:3510 et seq., as amended, and the Louisiana Deferred Presentment and Small Loan Act, (LDPSLA), R.S. 9:3578.1 et seq., as amended. In addition, unless the context otherwise requires, as determined by the commissioner in his discretion, the following definitions set forth in Subsection B below, apply in this Chapter 11.

B. Definitions

Chapter—this Chapter 11 of Part XI of Title 10 of the Louisiana Administrative Code.

Commissioner—the commissioner of the Office of Financial Institutions for the state of Louisiana.

Deferred Presentment Transaction—a transaction made pursuant to a written agreement whereby a licensee:

a. accepts a check from the issuer dated as of the date it was written;

b. agrees to hold the check for a period of time not to exceed 30 days prior to negotiation or presentment;

c. pays to the issuer of the check the amount of the check less the fee permitted in R.S. 9:3578.4(A). The amount paid to the issuer of the check may not exceed \$350.

LCCL—the Louisiana consumer credit law, R.S. 9:3510 et seq., as amended.

LDPSLA—the Louisiana Deferred Presentment and Small Loan Act, R.S. 9:3578.1 et seq., as amended.

Lender Personnel—a person(s), as defined in R.S. 9:3516(24.1), who is employed by, contracted with, or engaged in the performance of services, that involve the general public, including, but not limited to, those that offer, market, negotiate, and/or sell deferred presentment transactions or small loans by or for a person licensed by the commissioner pursuant to the LCCL and the LDPSLA.

Person(s)—all persons, as defined in R.S. 9:3516(24.1) of the LCCL, licensed by the commissioner pursuant to the LCCL and the LDPSLA who engage in the business of making small loans and deferred presentment transactions pursuant to the LDPSLA.

Small Loan—a consumer loan, as defined in R.S. 9:3516(14), of \$350 or less, made for a term of 60 days or less.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950 et seq., R.S. 9:3554(A)(5), R.S. 9:3554(B), and R.S. 9:3578.8(A) and (B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 41:537 (March 2015).

§1105. Required Education

A. Each person shall provide education to all lender personnel annually no later than January 1 of each year and to all new lender personnel within the first month upon attainment of this status or designation and each calendar year thereafter no later than January 1. The education material to be utilized by the person shall be provided to persons by the commissioner electronically, through email transmissions, the website of the Office of Financial Institutions, or otherwise, as deemed appropriate by the commissioner. Such education shall consist of certain elements related to compliance with the LCCL, LDPSLA, and this Chapter, including but not limited to, those items enumerated in Subsection B below.

B. Elements:

1. all fees and charges allowed in connection with, and limitations pertaining to deferred presentment transactions and small loans, specifically the education shall include instruction regarding the 16.75 percent maximum fee limitation and \$45 cap, the documentation fee limitation, the default interest limitation for one year and beginning one year after contractual maturity, the delinquency fee limitation, and that no other fees or charges are allowable;

2. all rebates provided for in connection with deferred presentment transactions and small loans;

3. all prohibited acts specified in R.S. 9:3578.6 of the LDPSLA;

4. provisions of Acts 2014, No. 636 of the Louisiana Legislature, regarding deferred presentment transactions and small loans, and specifically those provisions regarding the repeal of the one-time delinquency charge authorized by R.S. 9:3527(A)(1), and the extended payment plan provision contained in R.S. 9:3578.4.1, and limitations in connection with the same; and

5. any other educational information provided to the person by the commissioner subsequently, electronically, through email transmissions, the website of the Office of Financial Institutions, or otherwise, and determined by the commissioner to be related to persons engaging in the business of making deferred presentment transactions and small loans.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950 et seq., R.S. 9:3554(A)(5), R.S. 9:3554(B), and R.S. 9:3578.8(A) and (B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 41:537 (March 2015).

§1107. Administration

A. Each person subject to this chapter shall retain such minimum records to show full compliance of the requirements set forth hereunder, which minimum records are deemed necessary by the commissioner, and set forth by the commissioner electronically, through email transmissions, the website of the Office of Financial Institutions, or otherwise, as deemed appropriate by the commissioner. This Chapter does not replace the person's responsibilities to comply with any other applicable record retention requirements, or to create, implement, and maintain its own comprehensive record retention program, consistent with the person's strategic goals and objectives. Such records may be retained in various forms as approved by the commissioner, including but not limited to, hard copies, photocopies, computer printouts or microfilm, microfiche, imaging, or other types of electronic media storage that can be readily accessed and reproduced into hard copies.

B. The commissioner may enforce this chapter pursuant to authority and in the manner provided to him, by the laws under his jurisdiction, including but not limited to R.S. 6:121.1, R.S. 9:3554, R.S. 9:3555, R.S. 9:3556, R.S. 9:3556.1, R.S. 9:3556.2, R.S. 9:3556.3, and R.S. 9:3578.8, and including but not limited to, the issuance of orders assessing civil money penalties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950 et seq., R.S. 9:3554(A)(5), R.S. 9:3554(B), and R.S. 9:3578.8(A) and (B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 41:538 (March 2015).

§1109. Severability

A. If any Section, term, or provision of any of these rules, LAC 10:XI.1101-1109, is for any reason declared or adjudged to be invalid, such invalidity shall not affect, impair, or invalidate any of the remaining rules, or any term or provision thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950 et seq., R.S. 9:3554(A)(5), R.S. 9:3554(B), and R.S. 9:3578.8(A) and (B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 41:538 (March 2015).

John Ducrest, CPA
Commissioner

1503#013

RULE

Department of Health and Hospitals Bureau of Health Services Financing and Office for Citizens with Developmental Disabilities

Home and Community-Based Services Waivers Children's Choice Waiver (LAC 50:XXI.11527)

Editor's Note: Section 11527 is being repromulgated to correct citation errors. The original Rule can be viewed in its entirety on pages 125-129 of the January 20, 2015 *Louisiana Register*.

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities have amended LAC 50:XXI.11527 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE Part XXI. Home and Community-Based Services Waivers

Subpart 9. Children's Choice

Chapter 115. Providers

Subchapter B. Provider Requirements

§11527. Direct Service Providers

A. - A.3.d. ...

e. All services must be performed and completed during the current approved plan of care year. Services that are not completed by the end of the current approved plan of care year will be voided and deemed as non-billable. Services cannot carry over into the next plan of care year.

4. - 7. ...

8. The agency shall document that its employees and the employees of subcontractors do not have a criminal record as defined in 42 CFR 441.404(b). Providers of community supported living arrangement services must:

a. not use individuals who have been convicted of child abuse, neglect, or mistreatment, or of a felony involving physical harm to an individual; and

8.b. - 12. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, Bureau of Health Services Financing, LR 28:1985 (September 2002), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 33:1872 (September 2007),

amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:2501 (September 2013), LR 41:127 (January 2015), repromulgated LR 41:538 (March 2015).

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Kathy H. Kliebert
Secretary

1503#046

RULE

Department of Health and Hospitals Bureau of Health Services Financing

Intermediate Care Facilities for Persons
with Intellectual Disabilities
Provider Fee Increase
(LAC 50:VII.32903)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:VII.32903 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part VII. Long Term Care

Subpart 3. Intermediate Care Facilities for Persons with Intellectual Disabilities

Chapter 329. Reimbursement Methodology

Subchapter A. Non-State Facilities

§32903. Rate Determination

A. - D.4.d. ...

i. Effective for dates of service on or after April 1, 2014, the add-on amount to each ICF/ID's per diem rate for the provider fee shall be increased to \$16.15 per day.

E. - M. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:2253 (September 2005), amended LR 33:462 (March 2007), LR 33:2202 (October 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1555 (July 2010), LR 37:3028 (October 2011), LR 39:1780 (July 2013), LR 39:2766 (October 2013), LR 41:539 (March 2015).

Kathy H. Kliebert
Secretary

1503#047

RULE

Department of Health and Hospitals Bureau of Health Services Financing

Laboratory and Radiology Services
Reimbursement Methodology
Manual Pricing
(LAC 50:XIX.Chapter 43)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:XIX.Chapter 43 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XIX. Other Services

Subpart 3. Laboratory and X-Ray

Chapter 43. Billing and Reimbursement

Subchapter B. Reimbursement

§4329. Laboratory Services (Physicians and Independent Laboratories)

A. - L.3.a. ...

M. Effective for dates of service on or after May 20, 2014, the reimbursement for laboratory services shall be based on usual and customary billed charges or the Medicaid fee on file as of May 19, 2014, whichever is lesser.

1. If laboratory services do not have Medicare established rates, fees will be based on review of statewide billed charges for that service in comparison with set charges for similar services.

2. If there is no similar service, fees are based upon the consultant physicians' review and recommendations.

3. Reimbursement shall be the lesser of the billed charges or the Medicaid fee on file.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153, R.S. 49:1008(A), P.L. 98-369, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1025 (May 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1897 (September 2009), LR 36:1248 (June 2010), LR 36:2563 (November 2010), LR 37:3028 (October 2011), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Public Health, LR 39:95 (January 2013), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:1284 (May 2013), LR 41:539 (March 2015).

§4334. Radiology Services

A. - J. ...

K. Effective for dates of service on or after May 20, 2014, the reimbursement for radiology services shall be based on usual and customary billed charges or the Medicaid fee on file as of May 19, 2014, whichever is lesser.

1. If radiology services do not have Medicare established rates, fees will be based on review of statewide billed charges for that service in comparison with set charges for similar services.

2. If there is no similar service, fees are based upon the consultant physicians' review and recommendations.

3. Reimbursement shall be the lesser of the billed charges or the Medicaid fee on file.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1897 (September 2009), amended LR 36:1248 (June 2010), LR 36:2563 (November 2010), LR 37:3029 (October 2011), LR 39:1284 (May 2013), LR 41:539 (March 2015).

§4335. Portable Radiology Services

A. - H. ...

I. Effective for dates of service on or after May 20, 2014, the reimbursement for portable radiology services shall be based on usual and customary billed charges or the Medicaid fee on file as of May 19, 2014, whichever is lesser.

1. If portable radiology services do not have Medicare established rates, fees will be based on review of statewide billed charges for that service in comparison with set charges for similar services.

2. If there is no similar service, fees are based upon the consultant physicians' review and recommendations.

3. Reimbursement shall be the lesser of the billed charges or the Medicaid fee on file.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 30:1026 (May 2004), amended LR 35:1898 (September 2009), amended LR 36:1248 (June 2010), LR 36:2563 (November 2010), LR 37:3029 (October 2011), LR 39:1284 (May 2013), LR 41:540 (March 2015).

§4337. Radiation Therapy Centers

A. - H. ...

I. Effective for dates of service on or after May 20, 2014, the reimbursement for radiology services provided by radiation therapy centers shall be based on usual and customary billed charges or the Medicaid fee on file as of May 19, 2014, whichever is lesser.

1. If radiology services provided by radiation therapy centers do not have Medicare established rates, fees will be based on review of statewide billed charges for that service in comparison with set charges for similar services.

2. If there is no similar service, fees are based upon the consultant physicians' review and recommendations.

3. Reimbursement shall be the lesser of the billed charges or the Medicaid fee on file.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1898 (September 2009), amended LR 36:1248 (June 2010), LR 36:2563 (November 2010), LR 37:3029 (October 2011), LR 39:1284 (May 2013), LR 41:540 (March 2015).

Kathy H. Kliebert
Secretary

1503#048

RULE

Department of Health and Hospitals Bureau of Health Services Financing and Office of Aging and Adult Services

Personal Care Services—Long-Term
Freedom of Choice and Service Delivery
(LAC 50:XV.12901 and 12913)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services have amended LAC 50:XV.12901 and §12913 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 9. Personal Care Services

Chapter 129. Long Term Care

§12901. General Provisions

A. - F.2.b. ...

3. No individual may concurrently serve as a responsible representative for more than two participants in OAAS-operated Medicaid home and community-based service programs. This includes but is not limited to:

- a. the Program of All-Inclusive Care for the Elderly;
- b. long-term personal care services;
- c. the community choices waiver; and
- d. the adult day health care waiver.

G. The Department of Health and Hospitals may remove an LT-PCS service provider from the LT-PCS provider freedom of choice list and offer freedom of choice to LT-PCS participants when:

1. one or more of the following departmental proceedings are pending against a LT-PCS participant's service provider:

- a. revocation of the provider's home and community-based services license;
- b. exclusion from the Medicaid Program;
- c. termination from the Medicaid Program; or
- d. withholding of Medicaid reimbursement as authorized by the department's surveillance and utilization review (SURS) Rule (LAC 50:I.Chapter 41);

2. the service provider fails to timely renew its home and community-based services license as required by the home and community-based services providers licensing standards Rule (LAC 48:I.Chapter 50); or

3. the service provider's assets have been seized by the Louisiana Attorney General's office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:911 (June 2003), amended LR 30:2831 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 32:2082 (November 2006), LR 34:2577 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services

Financing and the Office of Aging and Adult Services, LR 35:2450 (November 2009), LR 39:2506 (September 2013), LR 41:540 (March 2015).

§12913. Service Delivery

A. - B. ...

C. Participants are not permitted to receive LT-PCS while living in a home or property owned, operated, or controlled by an owner, operator, agent, or employee of a licensed provider of long-term care services, and providers are prohibited from providing and billing for services under these circumstances. Participants may not live in the home of a direct support worker unless the direct support worker is related by blood or marriage to the participant.

1. The provisions of §12913.C may be waived with prior written approval by OAAS or its designee.

D. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:913 (June 2003), amended LR 30:2833 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2581 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:2509 (September 2013), LR 41:541 (March 2015).

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Kathy H. Kliebert
Secretary

1503#049

RULE

Department of Health and Hospitals Bureau of Health Services Financing

Professional Services Program
Physicians Services
Reimbursement Methodology
(LAC 50:IX.15113)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:IX.15113 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part IX. Professional Services Program

Subpart 15. Reimbursement

Chapter 151. Reimbursement Methodology

Subchapter B. Physician Services

§15113. Reimbursement

A. - I.3. ...

J. - J.4. Reserved.

K. ...

L. The reimbursement for newly payable services not covered by Medicare, when there is no established rate set by Medicare, shall be based on review of statewide billed charges for that service in comparison with set charges of a similar service.

1. If there is no similar procedure or service, the reimbursement shall be based upon a consultant physicians' review and recommendations.

2. For procedures which do not have established Medicare fees, the Department of Health and Hospitals, or its designee, shall make determinations based upon a review of statewide billed charges for that service in comparison with set charges for similar services.

3. Reimbursement shall be the lesser of the billed charges or the Medicaid fee on file.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1252 (June 2010), amended LR 36:2282 (October 2010), amended LR 37:904 (March 2011), LR 39:3301 (December 2013), LR 41:541 (March 2015).

Kathy H. Kliebert
Secretary

1503#050

RULE

Board of Supervisors of Louisiana State University and Agricultural and Mechanical College Office of Procurement and Property Management

University Pilot Procurement Code
(LAC 34:XIII.Chapters 3-25)

In accordance with the Administrative Procedures Act, R.S. 49:950 et seq., and R.S. 17:3139.5(5)(c)(i), the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College (LSU) has adopted rules comprising the *University Pilot Procurement Code* as authorized by the Louisiana Granting Resources and Autonomy for Diplomas Act, (LaGrad Act) R.S. 17:3139 et seq., and approvals granted by the Board of Supervisors, Board of Regents and Division of Administration. The adoption and use of a *University Pilot Procurement Code* is one of several autonomies granted by the LaGrad Act for qualifying higher education institutions. Once approved by the Joint Legislative Committee on the Budget and promulgated, the *University Pilot Procurement Code* will be used by LSU in place of state procurement law in R.S. 39:15.3, 196 through 200, 1481 through 1526, and 1551 through 1755. The *University Pilot Procurement Code* provides added methods of competition and flexibility in the selection of methods to be used for the procurement of goods and services, establishes competitive thresholds, expands public notice, outlines exceptions to the competitive selection process, sets forth dispute resolution processes, establishes standards for integrity in procurements and provides a broad range of processes and procedures to be followed by LSU and those seeking and doing business with LSU.

Title 34
GOVERNMENT CONTRACTS, PROCUREMENT
AND PROPERTY CONTROL

Part XIII. University Pilot Procurement Code

Chapter 3. Purpose, Applicability and Definitions

§301. Purpose and Legislative Authority

A. Goal. It is the goal of the university to procure goods and services in a manner that is open, fair, encourages competition, and affords vendors equal opportunities to compete.

B. Purpose. The purpose of this *University Pilot Procurement Code* is to establish parameters of a procurement program designed to support and facilitate the instructional, research and public service missions of the university by applying best methods and business practices to the procurement of goods and services and to structure other business arrangements by the university. This *University Pilot Procurement Code* is intended to promote the development and use of procurement processes which promote the pursuit of excellence and the best interests of the university while maintaining the highest possible integrity, broad based competition, fair and equal treatment of the business community and increased economies and efficiencies for the university.

C. Communication. The university will communicate and collaborate with the division of administration, other state colleges and universities and other public entities when mutual benefit can be obtained.

D. Authority. This *University Pilot Procurement Code* is adopted in compliance with the Louisiana Administrative Procedure Act (R.S. 49:950-999.25) and pursuant to the Louisiana Granting Resources and Autonomy for Diplomas Act (R.S. 17:3139-3139.7 as amended by Act 749 of 2014) and administrative approval granted by the Joint Legislative Committee on the Budget.

E. Implementation. Implementation of the *University Pilot Procurement Code* is subject to approval by the management board and shall be adopted in compliance with the Louisiana Administrative Procedure Act (R.S. 49:950-999.25) and pursuant to the Louisiana Granting Resources and Autonomy for Diplomas Act (R.S. 17:3139-3139.7. as amended by Act 749 of 2014) and administrative approval granted by the Joint Legislative Committee on the Budget.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 41:542 (March 2015).

§303. Applicability

A. Applicability. This *University Pilot Procurement Code*, together with established management board policies, applies to the acquisition by the university of all goods and services paid with public funds, and shall, as authorized by R.S. 17:3139.5.5.c.i, be used in place of these Louisiana procurement laws: R.S. 39:15.3, R.S. 39:196 through R.S. 39:200, R.S. 39:1481 through R.S. 39:1526, and R.S. 39:1551 through R.S. 39:1755.

B. Revenue Producing Enterprises. This *University Pilot Procurement Code* also applies to transactions with no expenditure of public funds where university facilities, personnel or services will be utilized for revenue producing

enterprises with other individuals or entities that will generate income for the university, consistent with established management board policies.

C. Other Institutions. Other institutions under the same postsecondary education management board as the initial qualifying institution may utilize this pilot procurement code, provided the procurement is conducted under the auspices of a shared services model managed by the initial qualifying institution.

D. Revocation. If the university's autonomy to use this *University Pilot Procurement Code* should be revoked by the Board of Regents or the Division of Administration pursuant to R.S. 17:3139.3 or R.S. 17:3139.5.6, the university shall end use of these pilot provisions in keeping with the revocation notice and shall resume procurements pursuant to applicable law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 41:542 (March 2015).

§305. Definitions

Aggrieved Party—a person who files a written protest in connection with the solicitation or award or the issuance of a written notice of intent to award a contract under the *University Pilot Procurement Code* and has or may have a pecuniary or other property interest in the award of the contract.

Anti-Competitive Practices—a practice among bidders or offerors which reduces or eliminates competition or restrains trade. An *anti-competitive practice* can result from an agreement or understanding among competitors to restrain trade such as submitting collusive bids or proposals, or result from business actions which have the effect of restraining trade, such as controlling the resale price of products.

Award—the acceptance of a bid or proposal; the presentation of a purchase agreement or contract to a selected respondent.

Best and Final Offer (BAFO)—in a competitive negotiation, the final proposal submitted by a respondent after negotiations have been completed and which contains the respondent's most favorable terms in response to the solicitation.

CEO—the most senior administrator for the university system governed by the management board, also referred to as *president*.

Chancellor—the chief administrative head of the institution of higher education, whether identified by this or some other title in the university's organization chart, also referred to as *president*.

Chief Financial Officer (CFO)—the most senior university executive responsible for financial controls for the university, whether identified by this or some other title in the university's organization chart. The CFO or designee has specified responsibilities under this *University Pilot Procurement Code*.

Chief Procurement Officer (CPO)—as used in this *University Pilot Procurement Code* is the director of procurement for the university and does not refer to the chief procurement officer for the state of Louisiana.

Client Services—services provided directly to university clients including, but not limited to, medical and dental services, employment and training programs, residential care, and subsidized housing.

Collusion—see *anti-competitive practices*.

Common or General Use Item—a specification which has been developed and approved for repeated use in procurements in accordance with the provisions of R.S. 39:1651(A) and (B).

Competitive Negotiation—a step toward a contract involving back and forth communication regarding costs and other criteria between the evaluation team and respondents who have been found suitable for award of a contract pursuant to evaluation of responses to a solicitation.

Competitive Reverse Auction (CRA)—a competitive online solicitation process conducted for goods and/or services in which respondents compete against each other online, in real time, in an open and interactive environment.

Competitive Sealed Bidding—the receipt of bids protected from inspection prior to bid opening. Bids may be received in any manner specified in the solicitation for bids including receipt by mail, by direct delivery, or through any secure electronic interactive environment permitted by rule or regulation.

Consultant—an independent individual or firm contracting with the university to perform a service or render an opinion or recommendation according to the *consultant's* methods and without being subject to the control of the university except as to the result of the work. The university monitors progress under the contract and authorizes payment.

Contract—all types of university agreements; sponsored agreements including but not limited to purchase orders, for the procurement or disposal of goods and services and the generation of revenue for the university by the use of university facilities, personnel or services; *contract* shall not include:

1. *contracts* or appointments for employment;
2. licensing of university's intellectual property specially regulated by the management board;
3. cooperative endeavor agreements.

Contract Controversy—a disagreement that may arise between the university and a contractor regarding the interpretation, application or breach of contract terms. This includes, without limitation, controversies based upon breach of contract, mistake, misrepresentation, or other cause for contract modification or rescission.

Contract Modification—any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of any contract accomplished by mutual action of the parties to the contract.

Contractor—any individual or entity having a contract with the university.

Cooperative Buying Organization (CBO)—a public or private organization that offers goods or services to subscribing public or private procurement units from vendors located in the United States who have agreed to uniform terms, conditions and pricing in accordance with an agreement entered into by the participants pursuant to a competitive award process.

Cooperative Purchasing—procurement conducted by or on behalf of more than one public procurement unit or by a public procurement unit with an external procurement activity or by a private procurement unit.

Electronic Signature—an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

Emergency Procurement—a purchase made after a written determination by the CPO that:

1. there exists an emergency condition which creates a threat to public health, welfare, safety, or public property, or conservation of public resources;
2. the emergency condition creates an immediate and serious need for goods or services that cannot be met through normal procurement methods.

Evaluation Team—a group of individuals designated to conduct interviews and negotiations during the evaluation of responses to a solicitation. The team members may be requested to provide scores for solicitations reviewed.

Firm, Fixed Price Contract—a contract where the total amount to be paid to the contractor is fixed and is not subject to adjustment by reason of the cost experience of the contractor. The term includes contracts where the unit price is set but the total price varies because actual quantities purchased deviate from the quantities estimated to be purchased. The term also includes contracts where the price may be adjusted in accordance with a contractually established price adjustment provision which is not based upon the contractor's costs.

General Services Administration (GSA) Contract Schedules—long-term government-wide contracts awarded by the U.S. General Services Administration to commercial entities to provide government procurement access to a broad spectrum of commercial goods and services at volume discount pricing.

Goods—all property, including but not limited to, equipment, materials, supplies, insurance, license agreements for software and leases on real property excluding a permanent interest in land, all consistent with established management board policies. *Goods* are not services.

Intergovernmental or Interagency Contracts—contracts or agreements in which each of the parties is a governmental entity or between subdivisions or institutions under their jurisdiction.

Invitation to Bid (ITB)—a solicitation, whether attached or incorporated by reference, utilized for soliciting bids to provide goods or services in accordance with this *University Pilot Procurement Code*.

Items for Resale—goods or services purchased by the university for retail sale to students, employees or the public.

Lease of Facilities—contracts for the lease or rental of space by or for the university shall require the authorization of the CPO. A lease or rental of more than 5,000 square feet in a privately owned building shall be awarded by use of an ITB or RFP as determined by procurement policies and approved by the CPO. Amendment of a *lease of facilities* shall be made only after approval by the CPO.

Management Board—the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College.

Multi-Step Bids or Proposals—a solicitation involving two competitive steps, combining the elements of both competitive sealed bids and competitive sealed proposals. The first step may require the submission of technical and price proposals with only the technical proposal being evaluated and scored. The second step involves the consideration of price proposals of those firms that have achieved the highest technical scores.

Negotiation—conferring, discussing, or bargaining to reach agreement in business transactions on a potential procurement.

Office of State Purchasing Contracts—contracts entered into by the Louisiana Office of State Purchasing and made available to other Louisiana procurement units.

President—the most senior administrator for the university system governed by the management board, also referred to as *CEO*.

Procurement—the process by which the ownership or use of goods or services is acquired. Also includes all functions that pertain to the obtaining of goods and services, including but not limited to description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.

Procurement Policies—policies shall generally describe requirements for selection and solicitation of sources, preparation and award of contracts and all phases of contract administration. *Procurement policies* may address other issues related to procurement and to revenue generating contracts.

Professional Services—work rendered by an independent contractor who has a professed knowledge of a particular aspect of learning or science and its practical application. A profession is a vocation founded on advanced specialized study and training which enables its practitioner to provide particular services.

Proprietary Specifications—a specification that cites brand name, model number, or some other designation that identifies a specific product to be offered exclusive of others.

Protest—a written objection by a potential aggrieved party to a solicitation or award of contract, with the intention of receiving a remedial result. *Protests* must be filed in accordance with this *University Pilot Procurement Code* (UPPC).

Public Funds—legislatively appropriated funds, interagency transfers, statutory dedication, federal appropriations, self-generated funds, gifts and funds received by the university by grant or other method from governmental or private sources and which may be used to advance the missions of the university.

Request for Proposals (RFP)—a solicitation for proposals to supply services or a combination of services and goods where weighted criteria are the basis for award. An *RFP* may also be used for a solicitation for lease of facilities.

Request for Quotation (RFQ)—a solicitation for use in procurements that includes a description of the goods or services specified and requests that a potential vendor respond with price and other information by a designated time and date. Evaluation and recommendation for award are based on the quotation which offers the best price, quality, delivery and services from a respondent with a satisfactory record for performance and reliability.

Request for Quote and Qualifications (RFQQ)—a solicitation the university has identified the need and the services to resolve it and is looking for a firm's qualifications and costs or fees to provide the identified services.

Respondent—an individual or entity that submits a response to a solicitation.

Responsible Respondent—a business entity or individual determined to be fully capable of meeting all requirements of the solicitation and subsequent contract and which has the personnel, financial and technical resources to perform as will be contractually required. A *responsible respondent* must be able to fully document in advance the ability to provide good faith performance.

Responsive Respondent—an individual or business entity that has submitted a bid/proposal/offer that fully conforms in all material respects to the requirements of the solicitation.

Services—the furnishing of labor, time or effort by a vendor which may involve, to a lesser degree, the delivery or supply of a product, incidental to the required performance.

Shared Service Model—the provision of a service or function by one part of an organization or group where that service or function had previously been found in more than one part of the organization or group. Funding and resourcing of the service is shared and the providing department effectively becomes an internal service provider.

Signature—a manual or electronic *signature*. See also *electronic signature*.

Small Purchases—procurements not exceeding \$5,000 or an amount as determined by the management board to be in the best interest of the university or to offset volatile economic conditions may be made in accordance with *small purchase* procedures, except that procurement requirements shall not be artificially divided so as to constitute a *small purchase* under this definition.

Sole Source Procurement—a purchase made when there is only one source for a good or service and only one vendor or supplier has the sole ability to meet the requirements of the procurement.

Solicitation—an ITB, RFP, RFQ, RFQQ, CRA, SFO or an electronic posting, document or any other communication used to obtain responses for the purpose of entering into a contract.

Solicitation for Offers (SFO)—a solicitation for a contract that will produce revenue or other significant benefit for the university.

University—Louisiana State University and Agricultural and Mechanical College, located at Baton Rouge and designated as the premier flagship university for the state, an institution of the Louisiana State University System and under the supervision and management of the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College.

University Pilot Procurement Code (UPPC)—the rules adopted pursuant to the authority granted by R.S. 17:3139.5.5.c.i, for use by the initial qualifying institution and those institutions operating under the auspices of a shared services model managed by the qualifying institution, in lieu of state procurement statutes when the university procures goods or services or enters other contracts.

Used Equipment—pre-owned or rebuilt/remanufactured/refurbished equipment that may be offered for purchase.

Vendor—a supplier or seller of goods or services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 41:542 (March 2015).

§307. Delegation and Revocation of Purchasing

Authority to Departments

A. Supervision. The CPO shall supervise assistants and other personnel as may be necessary for the efficient operation of university procurement.

B. Delegation. For the efficient operation of the university the CPO may delegate, in writing with the approval of the CFO or designee, to university deans, directors, or department heads, or their formally designated agents, authority to procure on behalf of their administrative units in keeping with this UPPC.

C. Compliance. The CPO will ensure where delegation or authorization to university deans, directors, or department heads, or their formally designated agents, authority to procure on behalf of their administrative units, that the UPPC, procurement procedures and ethical practices are followed to effectively mitigate potential risks to the university.

D. Revocation. The CPO may change, limit, expand or reverse such delegations at any time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 41:545 (March 2015).

Chapter 5. Competitive Solicitations

§501. Types of Competitive Methods

A. Determination. The CPO shall determine the appropriate solicitation methods to be used in procuring goods and services for the university. Among those methods are:

1. invitation to bid (ITB);
2. request for proposals (RFP);
3. request for quotation (RFQ);
4. request for quote and qualifications (RFQQ);
5. competitive reverse auction (CRA);
6. best and final offer (BAFO);
7. solicitation for offers (SFO);
8. competitive negotiation;
9. cooperative buying organizations (CBO);
10. multi-step bids or proposals.

B. Other Procurement Methods. Other procurement methods may be utilized where there is a written determination by the CPO and the CFO or designee that it is in the best interest of university to do so.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 41:545 (March 2015).

§503. Addenda Modifying Solicitations

A. Modifications to ITB or RFP. An addendum modifying an ITB or RFP shall not be issued during the 72

hours excluding Saturdays, Sundays, and holidays preceding the response submission deadline unless the time for submitting responses is extended for at least one week.

B. Modifications to RFQ or RFQQ. An addendum modifying an RFQ or RFQQ shall not be issued during the 24 hours excluding Saturdays, Sundays, and postal holidays preceding the response submission deadline unless the time for submitting responses is extended for at least 24 hours.

C. Distribution of Addendum. Addendum(s) shall be sent to all prospective respondents known to have received a solicitation. Notification of addenda may also be made by posting on electronic bulletin boards, publication in appropriate newspapers and trade journals, email and postal notices to potential vendors, and by other means determined by the CPO.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 41:545 (March 2015).

§505. Competitive Thresholds

A. Procurements. Single procurements of goods or services utilized within a twelve month period estimated to cost less than \$50,000 shall be made using procedures determined by the CPO. Procurement of goods and services utilized within a 12-month period estimated to cost in excess of \$50,000 or an amount as determined by the management board to be in the best interest of the university or to offset volatile economic conditions shall be made using the competitive methods set forth by the CPO unless exempt elsewhere in this UPPC.

B. Information Technology. Single procurements of information technology software, installation, license, modifications, integration, training, hosted software, software subscriptions, support, etc. and hardware/software maintenance estimated to cost less than \$100,000 during a 12-month period shall be made using procedures determined by the CPO. Procurement of information technology software and hardware/software maintenance estimated to cost in excess of \$100,000 or an amount as determined by the management board to be in the best interest of the university or to offset volatile economic conditions during a 12 month period shall be made using the competitive methods set forth by the CPO unless exempt elsewhere in this UPPC.

C. Professional Services. Procurements of professional services shall be made using procedures determined by the CPO. These include services that are rendered by an independent contractor who has a professed knowledge of some department of learning or science used in practical applications to the affairs of others or in the practice of an art founded on it, which independent contractors shall include and not be limited to lawyers, doctors, dentists, psychologists, advance practice nurses, veterinarians, architects, engineers, land surveyors, landscape architects, accountants, actuaries, claims adjusters, pharmacists, visiting professors and scientists.

D. Specialty Services by Individuals. Procurement of services rendered by individuals which require the use of graphic artists, sculptors, musicians, entertainers, photographers, and writers or which require the use of highly technical or unique individual skills or talents, such

as, but not limited to, paramedics, therapists, handwriting analysts, foreign representatives, expert speakers, trainers within a continuing education program and expert witnesses for adjudications or other court proceedings shall be made using procedures determined by the CPO.

E. Artificial Division. Under no circumstances may a procurement requirement be artificially divided so as to avoid the application of competitive thresholds under this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 41:545 (March 2015).

§507. Procurement of Insurance and Related Services

A. Contracts for Insurance. Contracts entered into by the university for the purchase of insurance or for obtaining services related to the operation of an insurance program shall be awarded in accordance with the provisions of this UPPC. Determination of the appropriate competitive method shall be made by the CPO.

B. The university shall contract for consulting services with one or more licensed insurance producers. Such contract(s) may authorize one or more producers to advise the university regarding the insurance program and to procure insurance on behalf of the university.

C. System-Wide Programs of Self-Insurance. Unless specifically authorized in advance, in writing, by the CEO or president for the university system governed by the management board, the provisions of this section shall not apply to any procurement related to any system-wide program of self-insurance or any other system-wide insurance or other employment benefit related programs.

D. Splitting of Commissions Prohibited. It shall be unlawful for an agent to split, pass on, or share with any person, group, organization, or other agent, except the university, all or any portion of the commission derived from the sale of insurance to the university; except that on policies involving properties or exposure in more than one geographic area of the state, said commission may be split, shared, or passed on if authorized in writing by the CPO. In any such instance where the sharing of a commission on university insurance is authorized, it shall be only with a bona fide insurance agent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 41:546 (March 2015).

§509. Specifications

A. Nonrestrictive Specifications. Specifications shall be developed in a manner which is most likely to result in the broadest possible competition while securing quality goods and services which meet the needs and expectations of the university. To the extent feasible, a specification may provide alternate descriptions of supplies, services, or major repairs items where two or more design, functional, or performance criteria will satisfactorily meet the university's requirements.

B. Proprietary Specifications. Proprietary specifications may be used only pursuant to the written approval of the

CPO upon a determination that such use is in the best interest of the university.

C. Use of Existing Specification. If a specification for a common or general use item has been developed and adopted in accordance with university standards or a qualified products list has been developed and adopted in accordance with university standards for a particular supply, service, or major repair item, or need, it shall be used unless the CPO makes a written determination that its use is not in the university's best interest.

D. Bid or Performance Guaranty. Solicitations may include requirements for bid and/or performance guaranty.

1. Bid Guaranty. When specified in the solicitation for bids or advertisement for bids, a bond or certified check, made payable to the university, in the amount and in accordance with the specifications in the solicitation for bids, must accompany each bid.

2. Performance Bond. When required, the successful bidder must furnish a satisfactory bond of a surety company licensed to do business in Louisiana with all fees current, made payable to the university in a sum equal to the amount and in accordance with the specifications in the solicitation for bids.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 41:546 (March 2015).

§511. Public Notice for Procurements; Submission Deadline

A. Public Notification. Public notification of solicitations for bids/proposals/offers/auctions/quotations may be made through a centralized electronic interactive environment. The notice for each solicitation may contain the name, address, email address and telephone number of the university contact person from whom detailed information may be obtained, shall describe the goods or services sought, and shall designate the forms to be used and the date, time and place for the receipt of bids/proposals/offers/auctions/quotations.

B. Time for Reasonable Notification. Notification of a solicitation shall allow a reasonable time for responses given the nature and complexity of the solicitation. Notification of solicitations may also be made by posting on electronic bulletin boards, publication in appropriate newspapers and trade journals, email and postal notices to potential vendors, and by other means determined by the CPO.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 41:546 (March 2015).

§515. Receipt and Recording of Responses

A. Receipt of Solicitation Response. Responses to solicitations shall be received in the manner specified including receipt by mail, direct delivery, or through any secure electronic interactive environment permitted pursuant to the Louisiana Uniform Electronic Transaction Act.

B. Designated Place of Response. A response received at the designated place after the submission deadline shall not be considered whether delayed in transmission or for any

cause whatsoever. In no case will late responses be considered.

C. Response Time. Responses to solicitations must be received at the time and place and in the format prescribed in the solicitation.

D. Delay of Response. If a receipt of a response is delayed by action of the university and this delay prejudices a respondent, the university shall cancel and reissue the solicitation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 41:546 (March 2015).

§517. Bid Submission Authority for Sealed Bids

A. Evidence of agency, corporate, or partnership authority may be required for submission of a bid to the university based on the type and complexity of the solicitation. If so required, the authority of the signature of the person submitting the bid shall be deemed sufficient and acceptable if any of the following conditions are met.

1. The signature on the bid is that of any corporate officer listed on the most current annual report on file with the secretary of state, or the signature on the bid is that of any member of a partnership or partnership in commendam listed in the most current partnership records on file with the secretary of state.

2. The signature on the bid is that of an authorized representative of the corporation, partnership, or other legal entity and the bid is accompanied by a corporate resolution, certification as to the corporate principal, or other documents indicating authority which are acceptable to the public entity.

3. The corporation, partnership, or other legal entity has filed in the appropriate records of the secretary of state in which the public entity is located, an affidavit, resolution, or other acknowledged or authentic document indicating the names of all parties authorized to submit bids for public contracts. Such document on file with the secretary of state shall remain in effect and shall be binding upon the principal until specifically rescinded and cancelled from the records of the respective offices.

B. Bids Binding. Unless otherwise specified all bids shall be binding for a minimum of 30 days. Nevertheless, if the lowest responsive and responsible bidder is willing to keep his price firm in excess of 30 days, the university may award to this bidder after this period has expired or the period as specified in the bid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 41:547 (March 2015).

§519. Mistakes in Responses

A. Errors in Responses. Patent errors in responses to solicitations supported by clear and convincing evidence may be corrected by the university or may be withdrawn, if such correction or withdrawal does not prejudice other respondents and such actions may be taken.

B. Minor Informalities. Minor informalities are a matter of form rather than substance which are evident from the solicitation documents or insignificant mistakes that can be

waived or corrected without prejudice to other respondents. The CPO may waive such informalities or allow the respondent to correct them depending on which is in the best interest of the university.

C. Mistakes Where Intended Bid is Evident. If the mistake and the intended bid are clearly evident on the face of the bid document, the bid may be corrected to the intended bid and may not be withdrawn. Examples of mistakes that may be clearly evident on the face of the bid document are typographical errors, errors in extending unit prices, transposition errors, and arithmetical errors. When an error is made in extending total prices, the unit bid price will govern. Under no circumstances will a unit bid price be altered or corrected.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 41:547 (March 2015).

§521. Cancellation of Solicitations

A. Cancellation of Solicitation. A solicitation may be cancelled, prior to execution of a contract, by the CPO at any time when it is deemed in the best interest of the university.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 41:547 (March 2015).

§523. Withdrawal of Bids or Proposals

A. Withdrawal of Bid or Proposal. A bid or proposal which contains a patently obvious, unintentional and substantial mechanical, clerical or mathematical error or unintentionally omits a substantial quantity of goods or services called for in the solicitation may be withdrawn by the respondent if clear and convincing sworn, written evidence of such error or omission is furnished to the university prior to award.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 41:547 (March 2015).

§525. Exceptions to the Competitive Solicitation Process

A. Exceptions. Exceptions to the competitive solicitation processes, when deemed in the best interest of the university, as the following, but not limited to:

1. equipment or vehicle repairs and repair parts from an authorized dealer or original equipment manufacturer;

2. equipment moves by the original equipment manufacturer or authorized dealer to ensure equipment operation to original equipment manufacturer specifications, calibration, warranty, etc.;

3. vehicle body repairs covered by insurance recovery and in accordance with insurance requirements;

4. livestock procured at public auction;

5. livestock sperm and ova;

6. working class animals trained to perform special tasks, including, but not limited to, narcotics detection, bomb detection, arson investigation and rescue techniques;

7. publications and/or copyrighted materials procured directly from the publisher or copyright holder;

8. publications and/or copyrighted materials procured by libraries or text rental stores from either subscription services or wholesale dealers which distribute for publishers and/or copyright holders;

9. publications of articles, manuscripts, etc. in professional scientific, research, or educational journals/media and/or the procurement of reprints;

10. royalties and license fees for use rights to intellectual property, such as, but not limited to: patents, trademarks, service marks, copyrights, music, artistic works, trade secrets, industrial designs, domain names, etc.;

11. public utilities and services provided by local governments;

12. prosthetic devices, implantable devices and devices for physical restoration;

13. educational training and related resources used to enhance the performance of university employees and good standing of state agencies, including memberships in and accreditations by professional societies and organizations;

14. materials, supplies, exhibitor fees and exhibit booths for conferences, seminars and workshops or similar events (business, educational, promotional activities) which enhance economic development or further the university's mission, duties and/or functions, with the approval of the CPO or equivalent;

15. food, material and supplies for teaching and training where procuring, preparing and serving of food are part of the prescribed course;

16. shipping charges and associated overseas screening and broker fees between international and domestic origins and destinations;

17. parcel services, including but not limited to Federal Express, United Parcel services, Airborne Express and Express Mail;

18. advertising where the CPO certifies that specific media is required to reach target audiences;

19. scientific and laboratory supplies, equipment and services for scientific research when procured by the university for laboratory, educational or scientific research; not to exceed \$50,000 per transaction;

20. procurement or rental of mailing lists;

21. art exhibitions, rentals and/or loan agreements and associated costs of curatorial fees, transportation and installation;

22. instructors for continuing education courses taught on an as-needed basis;

23. procurement of services from subcontractors named in federal, state and private sponsored agreements when the grant award is received in which a portion of the services is subcontracted;

24. services paid for with federal funds provided specifically for such purposes;

25. used equipment and antique procurements;

26. Office of State Purchasing contracts or state master agreements;

27. procurements from GSA contract schedules;

28. intergovernmental or interagency contracts;

29. procurement of items for resale;

30. renewal of document storage facilities;

31. dues, registrations and membership fees;

32. analysis of research specimens necessary to preserve continuity of science;

33. goods or services purchased in foreign countries;

34. contracts for employee benefit plans as authorized by law;

35. client services;

36. procurements not exceeding the amounts established by the management board may be made in accordance with small purchase procedures, except that procurement requirements shall not be artificially divided so as to constitute a small purchase;

37. web-based or subscription services;

38. services provided by expert witnesses;

39. renewal of termite service contracts.

B. Emergency Procurements. Emergency procurements shall be made using the most competitive process available consistent with the need for responding to the emergency. Reasonable efforts under the circumstances shall be made to obtain quotations from three or more vendors when goods or services are to be purchased on an emergency basis. Emergency procurement shall be limited to only those goods and services necessary to meet the emergency.

C. Cooperative Purchasing Agreements

1. The CPO may approve a single purchase or approve ongoing participation in a cooperative purchasing agreement as a University-wide price agreement. The CPO has the final authority to approve the university's participation in cooperative purchasing agreements.

2. If it is in the best interests of the university after considering:

a. the competitiveness of pricing under the contract;

b. the competitiveness of the solicitation and award process;

c. the efficiencies and cost savings of using the contract.

3. The university may participate in, conduct, sponsor or administer a cooperative purchasing agreement.

4. A report of all group purchasing or cooperative purchasing contracts by each institution authorized under these provisions shall be provided to the Joint Legislative Committee on the Budget no later than 90 days after the end of each fiscal year. Such report shall, at a minimum, include a measurement of the savings derived from the utilization of the group purchasing or cooperative purchasing process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 41:547 (March 2015).

Chapter 6. Reverse Auctions

§603. Application

A. Where the university utilizes the reverse auction process on behalf of a single institution, the CPO shall:

1. determine it is in the best interest of the university to use electronic online bidding;

2. determine specifications and terms and conditions for the procurement.

B. When applicable, prequalified products for a particular solicitation shall be announced seven days prior to the beginning of the auction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 41:548 (March 2015).

§605. Addenda Modifying a Reverse Auction

A. It is the responsibility of the bidder to obtain any solicitation amendment(s) if the solicitation and addenda are posted on an electronic internet-based system for posting bid opportunities.

B. An addendum modifying a reverse auction shall not be issued during the 72 hours excluding Saturdays, Sundays, and postal holidays preceding the opening date and time unless the opening date and time is extended for at least one week.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 41:549 (March 2015).

§615. Public Viewing of Auction Event

A. The public may view the internet auction event which will be conducted such that the names of the bidders will not be disclosed until after the completion of the auction, at which time the event record will be available to the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 41:549 (March 2015).

Chapter 7. Veterans and Small Entrepreneurships

§701. Initiatives for Veterans and Small Entrepreneurships

A. Hudson and Veterans' Initiatives. Procurement procedures shall establish the means for implementation of the Hudson and Veterans' Initiatives as required by R.S. 39:2001-2008 and R.S. 39:2171-2179 respectively. Whenever deemed by the CPO as in the best interests of the university, solicitations may include reserved points potential respondents certified as small and emerging business (R.S. 51:941), or a small entrepreneurship (R.S. 39:2006) or a veteran or service-connected disabled veteran-owned small entrepreneurship (R.S. 39:21).

B. The CPO may waive the requirement of obtaining three or more quotes when purchases do not exceed \$50,000 per transaction from a small entrepreneurship certified under either the Hudson or Veteran Initiative when price is determined to be reasonable, in their sole discretion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 41:549 (March 2015).

Chapter 9. Revenue Generating Solicitations and Contracts

§901. Revenue Generating Contracts

A. Solicitations. Contracts or franchises by the university which will generate income or other significant benefit for the university and which will result in an exclusive right for the contracting party to provide goods or services, using university facilities, personnel or services shall be awarded by the use of an open competitive process which is approved

by the CPO and the CFO or designee and consistent with management board policies. Such competitive process shall allow reasonable time for potential respondents to prepare responses given the nature and complexity of the responses solicited.

B. Exception to Competition. When it is determined by the CPO, with the written concurrence of the CFO or designee, consistent with established management board policies, that circumstances support the award of a revenue generating contract without competition, such a contract may be entered. Contracts by which services produced by the university are made available to entities outside the university need not be competitively awarded but shall be made on a basis that assures the recovery of costs associated with providing those services and a reasonable return to the university. Such contracts shall be structured in a manner which enhances opportunities for instruction, research, public service and other objectives of the university.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 41:549 (March 2015).

Chapter 11. Contracts with University or State Employees

§1103. Contracts with University or State Employees

A. Faculty of Other Universities. Contracts between the issuing university and a faculty member of any other university shall be subject to the policies and procedures promulgated by each respective university and the management boards having authority over the respective institution of higher education where the faculty member is employed. Such agreement shall be subject to the written approval of the chancellor of the university which employs the faculty member, and written notification of the agreement and approval shall be provided to the appropriate management board.

B. Faculty or Staff of the University. Contracts between university and any of its own employees, or between university and any other employee of the State of Louisiana or any of its political subdivisions, shall be consistent with the *Louisiana Code of Governmental Ethics*, the *Code of Ethics* for procurement as defined in LAC 34:XIII.Chapter 23, Civil Service rules, other applicable laws and regulations, and established management board policies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 41:549 (March 2015).

Chapter 13. Evaluation and Award of Competitive Solicitations

§1302. Evaluation and Award

A. Responses. Responses to solicitations shall be evaluated in keeping with the criteria, specifications, terms and conditions set forth in the solicitation.

B. Lowest Cost. Unless otherwise specified in the solicitation an award based on a solicitation shall be to the responsible respondent whose bid is responsive to the terms, conditions and specifications and which offers the lowest cost to the university.

C. Highest Score. An award based upon an RFP shall be to the responsible respondent whose proposal was scored highest by an evaluation team based on the weighted criteria set forth in the RFP after completion of all steps of the evaluation process set forth in the RFP, taking into consideration price and the evaluation factors set forth in the RFP.

D. Greatest Return. The award based on an SFO which results in an exclusive right or franchise for the use of university facilities or services shall be made to the respondent that meets the terms and conditions of the solicitation and offers the greatest return to the university.

E. Notice. Written notice of the award of a contract shall be provided to all respondents requesting such notice and shall be made a part of the procurement file.

F. Tie Bids. Tie bids occur when responsive bids from responsible respondents are identical in price and meet all requirements and criteria set forth in the solicitation and are susceptible of award. When there is a tie between an out-of-state and Louisiana respondent, preference will be given to the Louisiana respondent. The CPO shall make an award when tie bids are received in any manner that will discourage tie bids. A written determination justifying the manner of award must be made.

G. Subsequent Award. In the event any contractor fails to fulfill or comply with the terms of any contract, the CPO may award the contract to the next lowest responsible respondent to the solicitation which resulted in the contract, subject to acceptance by that respondent, and may hold the defaulting contractor responsible for the difference in cost.

H. Independent Price Determination. Every solicitation shall provide that by submitting a bid or offer, the respondent certifies that the price submitted was independently arrived at without collusion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 41:549 (March 2015).

§1305. Right to Reject

A. Rejection. The university reserves the right to reject any or all responses to a solicitation in whole or in part and to award by items, parts of items or by any group of items specified. Also, the right is reserved to waive any technical defects when the best interest of the university will be served.

B. The university reserves the right to reject any or all responses to a solicitation from respondents that are an entity, or are principal individuals within an entity, which has been convicted of a felony or any misdemeanor involving moral turpitude.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 41:550 (March 2015).

§1307. Responsibility of Bidders and Proposers

A. A reasonable inquiry to determine the responsibility of a bidder or proposer may be conducted. The unreasonable failure of a bidder or proposer promptly to supply information in connection with such an inquiry may be

grounds for a determination of non-responsibility with respect to such bidder or proposer.

B. Whenever the CPO proposes to disqualify the lowest bidder, the university shall:

1. give written notice of the proposed disqualification to such bidder and include all reasons for the proposed disqualification;

2. give such bidder who is proposed to be disqualified, a reasonable opportunity to be heard at an informal hearing at which such bidder is afforded the opportunity to refute the reasons for the disqualification.

C. Except as otherwise provided by law, information furnished by a proposer pursuant to this Section may not be disclosed outside of the university without prior written consent of notice to the proposer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 41:550 (March 2015).

Chapter 15. Disputes and Contract Controversies

§1503. Dispute Resolution

A. Authority of CPO. The CPO is authorized to resolve protests and contract controversies. Detailed procedures will be regarding calculation of deadline dates, methods of transmitting protests and contract controversies, and similar administrative matters.

B. Protests

1. All protests to a solicitation shall be filed in writing with the CPO no later than three days prior to the response submission deadline, excluding Saturdays, Sundays, and postal holidays. All protests to the award of a contract shall be filed with the CPO no later than seven days after the issuance of the notification of award.

2. The CPO shall render a written decision regarding a protest within 14 days, excluding Saturdays, Sundays, and postal holidays after receipt of the protest and any subsequently submitted information. A written decision shall be furnished to the aggrieved party and other interested parties.

3. In the event of a timely protest relating to a solicitation or the award of a contract, university shall not proceed with the solicitation or the award of a contract unless the CPO makes a written determination that the award of the contract without delay is necessary to protect substantial interests of the university.

4. Protest Bonds. Bonds may be required, and must have been included in the solicitation, when the university determines that the harm from delay of implementation of a contract could adversely affect the operations of the university.

C. Contract Controversies

1. All contract controversies shall be filed with the CPO no later than seven days after either the termination of the contract or the event giving rise to the controversy, whichever is later.

2. The CPO shall render a written decision regarding a contract controversy within seven days, excluding Saturdays, Sundays and postal holidays. After all parties to the controversy have had a reasonable opportunity to state in writing their position on the issues involved and their

responses to the positions of other parties to the controversy, a written decision shall be furnished to the contractor.

D. Hearing. If the CPO determines that the issues involved in a protest or contract controversy are complex, obscure or would best be evaluated based on the testimony of the parties or others, the CPO may extend the relevant time periods or call for a hearing at which evidence may be received, a record created and a decision rendered by an independent hearing officer designated by the CPO. All interested parties shall be allowed to fully participate in such a hearing.

E. Decision of CPO. A decision of the CPO or a designated hearing officer regarding a protest or a contract controversy is final and conclusive except when:

1. the person or entity adversely affected has filed an appeal as provided in this Section.

F. Appeal. Any person or entity aggrieved by the decision of the CPO or hearing officer regarding a protest or a contract controversy may appeal the decision to the CFO or designee within seven days of receipt of the written decision. Review by the CFO or designee of the decision of the CPO or hearing officer shall be based on documents submitted by the CPO and the person or entity aggrieved by the decision or, if a hearing was conducted, upon the record created from the hearing.

G. Final Administrative Determination. The decision of the CFO or designee regarding an appeal brought under LAC 34:XIII.1503.F may not be appealed. The decision of the CEO or designee shall constitute the final administrative determination regarding the protest or contract controversy.

H. Judicial Review. Any person or entity adversely affected by the final administrative determination regarding a protest or contract controversy may seek judicial review of the administrative determination in the Nineteenth Judicial District Court in East Baton Rouge Parish, which review shall be based on the record compiled at the administrative level.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 41:550 (March 2015).

§1507. Damages

A. Protest Damages. The CPO, or designee, any hearing officer, and any court properly hearing any matter arising out of any protest may award damages to the aggrieved party when the protest brought by such aggrieved party is sustained and the aggrieved party should have been awarded the contract but was not. Such damages shall be limited exclusively to reasonable costs incurred in connection with the solicitation, including bid preparation costs other than attorney's fees.

B. Contract Damages. The CPO, or designee, any hearing officer, and any court properly hearing any matter arising out of any contract controversy may award damages to the contractor when the contract controversy brought by such contractor is sustained. Such damages shall be limited exclusively to the actual expenses reasonably incurred in performance of the contract.

C. Administrative Costs. Any administrative determination of costs or expenses recoverable pursuant to

this section shall be final, subject to the discretionary review of the management board.

D. Limitations. In no event shall damages awarded by the CPO, or designee, any hearing officer, the CEO, or designee, or any court include attorney fees or any incidental, indirect, special, or consequential damages, including but not limited to loss of use, revenue or profit, whether reasonably certain or not.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 41:551 (March 2015).

Chapter 16. Inspection and Audit of Records

§1601. Right to inspect

A. The university may, at reasonable times, inspect the place of business of a contractor or any subcontractor which is related to the performance of any contract awarded or to be awarded by the university.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 41:551 (March 2015).

§1603. Right to Audit Records

A. Audit of Persons Submitting Cost or Pricing Data. The university may, at reasonable times and places, audit the books and records of any person who has submitted cost or pricing data to the extent that such books and records relate to such cost or pricing data.

B. Contract Audit. The university shall be entitled to audit the books and records of a contractor or any subcontractor under any negotiated contract or subcontract other than a firm fixed-price contract to the extent that such books and records relate to the performance of such contract or subcontract. Such books and records shall be maintained by the contractor for a period of five years from the date of final payment under the prime contract and by the subcontractor for a period of five years from the date of final payment under the subcontract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 41:551 (March 2015).

Chapter 17. Judicial Review of Administrative Determinations

§1702. Venue for Actions by or against the University in Connection with Procurement

A. Solicitation and Award of Contracts. The Nineteenth Judicial District Court shall have exclusive venue over an action between the university and a bidder, offeror, or contractor, prospective or actual, to determine whether a solicitation or award of a contract is in accordance with the constitution, statutes, regulations, and the terms and conditions of the solicitation. Such actions shall extend to all kinds of actions, whether for monetary damages or for declaratory, injunctive, or other equitable relief.

B. Debarment or Suspension. The Nineteenth Judicial District Court shall have exclusive venue over an action

between the university and a person who is subject to suspension or debarment proceedings, to determine whether the debarment or suspension is in accordance with the constitution, statutes, and regulations. Such actions shall extend to actions for declaratory, injunctive, or other equitable relief.

C. Actions under Contracts or for Breach of Contract. The Nineteenth Judicial District Court shall have exclusive venue over an action between the university and a contractor who contracts with the university, for any cause of action which arises under or by virtue of the contract, whether the action is on the contract or for a breach of the contract or whether the action is for declaratory, injunctive, or other equitable relief.

D. Finality for Administrative Determinations. In any judicial action under this section, factual or legal determinations by employees, agents, or other persons appointed by the university shall be final and conclusive unless they are clearly erroneous, arbitrary, capricious or contrary to law. Administrative decisions will be made pursuant to LAC 34:XIII.Chapter 15 and LAC 34:XIII.Chapter 21 unless the decision is fraudulent or the person or entity adversely affected by the decision has timely appealed administratively or judicially.

E. Writs or Appeals; District Court Decisions. Any party aggrieved by a final judgment or interlocutory order or ruling of the Nineteenth Judicial District Court may appeal or seek review thereof, as the case may be, to the Court of Appeal, First Circuit, or the Supreme Court of Louisiana, as otherwise permitted in civil cases by law and the constitution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 41:551 (March 2015).

Chapter 19. Contracts

§1902. Contract Clauses; Administration

A. Required Contract Clauses. Clauses providing for the following requirements may be included in contracts, except upon a written determination by the CPO, approved in writing by the CFO or designee that the interests of university are best served by omitting the clause. The interest of the university that may include the following:

1. termination of the contract for default;
2. the right to audit records related to the procurement;
3. the right to suspend or terminate a contract based on the absence of budgeted funds for the acquisition of goods or services;
4. prohibiting illegal discrimination by the contractor;
5. requiring that Louisiana law shall apply to all disputes, and that venue for any actions brought against university arising out of the contract shall be only in the Nineteenth Judicial District Court in East Baton Rouge Parish;
6. liquidated damages as appropriate;
7. specified reasons for delay or nonperformance;
8. termination of the contract in whole or in part for the convenience of the university;
9. for cost reimbursement-based contracts, an itemized budget;

10. a description of reports or other deliverables to be received, when applicable;

11. a schedule when reports or other deliverables are to be received, when applicable;

12. responsibility for payment of taxes, when applicable;

13. assignability of the contract or rights to payments under the contract;

14. indemnification;

15. payment terms in accordance to R.S. 13:4202(B) for the applicable time period.

B. Contract Clauses. May permit or require the inclusion of clauses providing for appropriate equitable adjustments in prices, time for performance, or other contract provisions.

C. Documentation. If it is determined by the university that additional evidence of the validity of a claim for payment is required, such evidence shall be requested within 10 days, excluding Saturdays, Sundays and postal holidays from the receipt of the bill. In instances where additional evidence is required, the bill shall be reviewed and payment or rejection made within 30 days from receipt of the evidence requested by the university.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 41:552 (March 2015).

§1904. Participation by Respondent Constitutes Consent

A. Express Consent. Participation by a respondent in any procurement process governed by this UPPC shall constitute express consent to the procedures, limitations, and other terms and conditions contained in this UPPC.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 41:552 (March 2015).

§1906. Multiyear Contracts

A. Term. Except as otherwise provided in this section, no contract for goods or services may be entered into for periods of more than ten years. Payment and performance obligations for fiscal years after the initial year shall be subject to the availability and appropriation of funds therefor. No contract shall be entered into for more than one year unless the length of the contract was clearly stated in the specifications included in the solicitation. With respect to all multiyear contracts, there shall be no provisions for a penalty to the university for the cancellation or early payment of the contract.

B. Sponsored Agreements or Joint Agreements. Contracts or amendments to existing or future agreements or amendments issued under the authority of sponsored agreements or joint agreements between the Board of Regents and federal agencies for research, educational, or infrastructure development activities, and contracts or amendments to existing contracts issued by university under the authority of sponsored agreements or joint agreements issued by federal agencies or private sponsored agreements, may be entered into for a period corresponding to the performance period of the contract or agreement.

C. Capital Investments/Gifts. A nonexclusive contract with a vendor who has made a gift to the university of equipment utilized for promoting products and university activities at a substantial cost to the vendor, and which covers products for resale within the institution, may be entered into for a period not to exceed 10 years.

D. Term of Revenue Generating Contracts. Nothing in this Section shall limit the term of revenue generating contracts.

E. Exceptions. Notwithstanding the limitations set forth in this section, contracts of any type may be entered into for a longer term upon the express authorization of the management board, based on the written recommendation of the CPO and the chancellor that:

1. estimated, requirements cover the period of the contract and are reasonably firm and continuing; and

2. such a contract will serve the best interests of the university by encouraging effective competition or otherwise promoting economies in university procurement, which recommendation shall also state the estimated savings to be obtained by entering into a multiyear contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 41:552 (March 2015).

Chapter 21. Respondent and Contractor Relations

§2103. Contractor Communications

A. Registry. The business must be registered with the Louisiana Secretary of State's office.

B. Product Demonstrations. Potential respondents seeking to provide product demonstrations, presentations or exhibits to university personnel shall first request authorization to do so in writing to the CPO.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 41:553 (March 2015).

§2105. Suspension Pending Debarment Investigation

A. Suspension. The CPO may issue a written determination to suspend a person or entity from doing business with the university pending an investigation to determine whether cause exists for debarment pursuant to *University Pilot Procurement Code*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 41:553 (March 2015).

§2107. Debarment

A. Authority. After reasonable notice to the person involved and reasonable opportunity for that person to be heard, the CPO shall have authority to debar a person from consideration for the award of contracts. The decision to debar shall be based upon substantial evidence that a cause for debarment or suspension under subsection B has occurred. In making the decision of whether to debar a person, the CPO shall take into consideration the seriousness of any violation and any mitigating factors. The CPO may suspend a person from consideration for an award of

contracts for a period of up to three months if there is probable cause for debarment.

B. Causes. A person or entity may be debarred from further participation in contracts with the university on any of the following grounds:

1. conviction of the person or entity, or any of its officers, directors, principals, or key employees, of a criminal offense related to obtaining or attempting to obtain a contract with the university or the performance of a contract with the university;

2. conviction of the person or entity, or any of its officers, directors, principals, or key employees, of a criminal offense related to fraud, embezzlement, theft, forgery, bribery, falsification or destruction of records, or receiving stolen property, or any other offense involving moral turpitude;

3. conviction, or a civil finding of liability, of the person or entity or any of its officers, directors, principals, or key employees, of an offense under antitrust statutes of the United States, Louisiana, or any other state, for activities arising out of the submission of bids or proposals;

4. failure to perform in accordance with the terms of one or more contracts following notice of such failure, or a repeated failure to perform or of unsatisfactory performance of one or more contracts;

5. the person or entity is currently under debarment by any other government entity based upon a settlement, agreement or a final administrative or judicial determination issued by a federal, state or local governmental entity;

6. violation of any federal or state law regulating campaign contributions;

7. violations of any federal or state environmental law;

8. violation of any federal or state law regulating hours of labor, minimum wage standards or prevailing wage standards; discrimination in wages; or child labor violations;

9. violation of the Workers' Compensation Act;

10. violation of any federal or state law prohibiting discrimination in employment;

11. three or more occurrences where a person has been declared ineligible for a contract;

12. unsatisfactory performance, including, but not limited to, any of the following:

- a. failure to comply with terms of a state or university contract or subcontract, including, but not limited to: willful failure to perform in accordance with the terms of one or more contracts, a history of failure to perform or unsatisfactory performance of one or more contracts;

- b. failure to complete the work in the time frame specified in the contract;

- c. being declared in default on prior work or project;

- d. failure to submit documents, information or forms as required by contract;

- e. making false statements or failing to provide information or otherwise to cooperate with the university, contracting agency, or other state authorities;

- f. discrimination in violation of laws or regulations in the conduct of business as a contractor;

13. any other act or omission indicating a lack of skill, ability, capacity, quality control, business integrity or business honesty that seriously and directly affects the

present responsibility of a person as determined by the purchasing agency.

C. Hearing. When the CPO determines that a person or entity may have engaged in activities which are cause for debarment, a hearing shall be conducted by an independent hearing officer, designated by the CPO, in which evidence is received and a record created. The hearing officer shall issue a decision, including findings of fact and conclusions, based on the evidence produced in the hearing.

D. Effect. If the decision is to debar, the decision shall state the debarment period and inform the person or entity that no person representing the debarred person or entity during the debarment period may conduct business with the university and that any response to a solicitation received from the debarred person or entity during the debarment period will not be considered.

E. Administrative Review. A decision by the hearing officer to debar a person or entity may be appealed to the CFO or designee within seven days of receipt of the written decision on debarment. The CFO's review shall be based on the record created from the hearing.

F. Appeal. The decision of the CFO or designee may be appealed within seven days, excluding Saturdays, Sundays and postal holidays, after receipt of the decision of the CFO or designee to the chancellor. The decision of the chancellor shall constitute the final administrative determination regarding the debarment. The person or entity debarred may seek judicial review of the administrative determination in pursuant to the provisions of LAC 34: XIII. Chapter 15, which review shall be based on the record compiled at the administrative level.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 41:553 (March 2015).

Chapter 23. Ethics

§2303. Integrity in Procurements

A. *Code of Ethics* and Ex Parte Communications. All parties involved in the procurement process, contract administration or contract performance are bound to act responsibly, fairly and in good faith. Any person acting for the university in the procurement process shall be held to the highest degree of integrity, honesty and trust and shall be bound by the *Louisiana Code of Governmental Ethics*, R.S. 49:1101 and the *Code of Ethics* for procurement which are in addition to applicable state laws, as follows:

1. give first consideration to the mission and policies of the university and the laws of the State of Louisiana;
2. strive to obtain maximum value for each dollar spent;
3. decline all personal gifts or gratuities;
4. grant equal consideration to all competitive suppliers;
5. believe in the dignity and worth of the service rendered by the Procurement Office, and the responsibilities assumed as trusted public servants;
6. conduct business with potential and current suppliers in good faith, devoid of intentional misrepresentation;

7. demand honesty in sales representation whether offered through the medium of a verbal, electronic or written statement, an advertisement, or a sample of the product;

8. receive the consent of originators of proprietary ideas and designs before using them for competitive purchasing purposes;

9. make every reasonable effort to negotiate an equitable and mutually agreeable settlement of any controversy with a supplier; and/or be willing to resolve major controversies, pursuant to the established policies of the university;

10. accord a prompt and courteous reception to all who call on legitimate business missions;

11. cooperate with trade, industrial and professional associations, and with governmental and private agencies for the purposes of promoting and developing sound business methods;

12. foster fair, ethical and legal trade practices;

13. identify and eliminate participation of any individual in operational situations where a conflict of interest may be involved;

14. resist encroachment on control of personnel in order to preserve integrity as procurement professional; seek or dispense no personal favors;

15. handle each procurement problem objectively and empathetically, without discrimination;

16. support the professional aims and objectives of the National Institute of Governmental Purchasing, Inc. and the National Association of Educational Procurement.

B. Procurement procedures shall provide for restrictions on ex parte communications which are appropriate to the circumstances.

C. Conflicts of Interest. In addition to the limitations of Subsection A of this Section, if the CPO has reason to believe that a conflict of interest may exist for university procurement or contract administration personnel, the CPO shall direct the parties involved to take appropriate steps to eliminate an actual, perceived, or potential conflict of interest and shall monitor compliance with these steps.

D. Collusion. When collusion is suspected among respondents to a solicitation, a written notice of the relevant facts shall be transmitted to the district attorney for the parish in which university is domiciled, the attorney general and the inspector general for investigation. All documents involved in any procurement in which collusion is suspected shall be retained for a minimum of six years or until the district attorney for the parish in which university is domiciled, the attorney general and inspector general give written notice that they may be destroyed, whichever period is longer. All retained documents shall be made available to the district attorney for the parish in which university is domiciled, the attorney general and inspector general or their designees upon request.

E. Limitations on Consultants Competing for Contracts. Any person or entity, and any parent or subsidiary business entity of any entity contracting with university for the purposes of developing an ITB, RFP, or any other type of solicitation related to a specific procurement shall be prohibited from bidding, proposing, or otherwise competing for award of that procurement. Such persons or entities shall

also be prohibited from participating as subcontractors related to performance of a contract resulting from that procurement. For purposes of this Section, the following activities shall not be considered developing an ITB, RFP, or any other type of solicitation:

1. architectural and engineering programming;
2. master planning;
3. budgeting;
4. feasibility analysis;
5. constructability review;
6. furnishing specification data or other product information;
7. any other services that do not establish selection qualifications or evaluation criteria for the procurement of an architect or engineer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 41:554 (March 2015).

Chapter 25. Management Board Authority

§2503. Management Board Policies Not Superseded

A. Special Policies and Provisions of Management Board. Nothing in this UPPC shall abridge any policies and provisions established by a management board, through its bylaws or regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 41:555 (March 2015).

Sally McKechnie
Director of Procurement and
Property Management

1503#019

RULE

Department of Revenue Policy Services Division

New Markets Jobs Act—Premium Tax Credit (LAC 61:I.1912)

Under the authority of R.S. 47:6016.1 and R.S. 47:1511, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, enacts LAC 61:I.1912.

Pursuant to Act 265 of the 2013 Regular Session, the department enacts LAC 61:I.1912 regarding the Louisiana New Markets Jobs Act.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 19. Miscellaneous Tax Exemptions, Credits and Deductions

§1912. Louisiana New Markets Jobs Act—Premium Tax Credit

A. Premium Tax Credit

1. *Louisiana Revised Statute* 47:6016.1 authorizes a state premium tax credit to any entity that makes a qualified equity investment. The entity or subsequent holder of the qualified equity investment shall be entitled to use a portion of the credit on each credit allowance date. The credit shall be equal to the applicable percentage for the credit allowance date multiplied by the purchase price or the amount paid for the qualified equity investment.

2. The applicable percent for the first and second credit allowance date is 14 percent. The applicable percentage for the third and fourth credit allowance date is 8.5 percent. The applicable percentage for the fifth, sixth and seventh credit allowance date is 0.0 percent.

3. The credit allowance date is the date the qualified equity investment is made and the six anniversaries of that date.

4. A qualified equity investment is an equity investment in a qualified community development entity made after August 1, 2013, which in turn is invested into a qualified active low income community business within this state by the first anniversary of the initial credit allowance date.

5. A qualified community development entity and a qualified active low income community business are defined as provided in section 45D of the *Internal Revenue Code* of 1986 as amended or the federal new markets tax credit statute.

6. A qualified low income community investment is any capital or equity investment in, or loan to a qualified active low income community business. The maximum amount of qualified low income community investments that may be received by any qualified active low income community business or its affiliates shall not exceed \$10,000,000. Any portion of an investment in a qualified active low income community business over \$10,000,000 shall not be considered a qualified low income community investment for the purpose of R.S. 47:6016.1 and the portion of the associated investment into the qualified community development entity shall not be a qualified equity investment for the purpose of R.S. 47:6016.1.

7. The tax credit shall be applied against any state premium tax liability incurred under the provisions of R.S. 22:831, 836, 838, and 842.

8. The amount of the credit shall not exceed the amount of state premium tax liability due in a taxable year. The credit may be carried forward for 10 years.

9. Credits issued to pass through entities may be allocated to the partners, members, or shareholders as provided in their operating or special allocation agreements.

10. Credits may only be claimed on returns due on or after January 1, 2014.

B. Certification of the Qualified Equity Investment

1. A qualified community development entity that seeks to have an equity investment designated as a qualified equity investment must apply to the Department of Revenue on a form prescribed by the Department of Revenue and submit a \$500,000 refundable guarantee deposit.

2. In addition to the application, the qualified community development entity must submit:

- a. a letter from the United States Department of Treasury Community Development Financial Institutions

Fund certifying the community development entity and its service area;

b. a copy of the allocation agreement issued from the Community Development Financial Institutions Fund;

c. a letter from an executive officer of the community development entity certifying that the allocation agreement from the Community Development Financial Institutions Fund is current;

d. a description of the proposed amount, structure, and purchaser of the qualified equity investment;

e. identifying information for any entity that will earn the tax credits;

f. identifying information for any community businesses.

3. Upon request, the qualified community development entity shall submit:

a. a power of attorney designating a representative to be contacted regarding any issues with a pending application;

b. a power of attorney from the investor authorizing the Department of Revenue to disclose their tax credit information to the applicant;

c. certification that the qualified active low income community business and its affiliates will not receive more than \$10,000,000 in qualified low income community investments under R.S. 47:6016.1;

d. special allocation agreements or operating agreements for investors who intend for the tax credits earned to flow through to their member or partners;

e. any other information requested necessary to ensure compliance with R.S. 47:6016.1.

4. Within 30 days of receipt of a completed application the Department of Revenue shall grant or deny the application for designation as a qualified equity investment.

a. If the application is granted, a letter will be issued to the applicant informing them that their application has been granted. Following the grant letter, a second letter will be issued providing for the specific amount of allocation authority that is being granted to the applicant. Lastly, a separate tax credit certification will be issued to the applicant certifying the credit amount and credit allowance dates. A copy of the tax credit certification will also be submitted to the Department of Insurance.

b. If the application is denied, the Department of Revenue will inform the applicant of the grounds on which the application is being denied and allow 15 business days for the applicant to cure any defects.

c. Ground for denials include, but are not limited to:

i. failure of applicant to submit the \$500,000 deposit;

ii. failure of the applicant to submit any information included in the application;

iii. failure of the applicant to submit any additional information requested by the Department of Revenue which is necessary to ensure compliance.

d. If the applicant cures the defects, the application shall retain its original submission date. If the applicant cannot cure the defect, the application will remain denied and the Department of Revenue will refund the \$500,000 deposit.

5. A qualified community development entity may transfer all or a portion of its designated qualified equity investment or allocation authority to its controlling entity or any other qualified community development entity included in the applicant's allocation agreement with the Community Development Financial Institutions Fund.

6. The \$500,000 deposit will be refunded within 30 days of a request once the qualified community development entity certifies that the qualified equity investment has been made and the qualified low income community investment has been made within one year of the first anniversary date of the qualified equity investment.

a. If the applicant fails to certify receipt of the qualified equity investment within 30 days of the certification by the Department of Revenue, the applicant will forfeit the \$500,000 deposit.

b. If the applicant fails to certify the qualified low income community investment within one year of the first anniversary and the six month cure period, the applicant will forfeit the \$500,000 deposit.

c. A request for return of the deposit may not be made until 30 days after the requirements of Paragraph B.6 of this Section have been met.

7. The application for the designation of a qualified equity investment may be withdrawn by the applicant at any time prior to the granting of the application by the Department of Revenue. If the application is withdrawn, the deposit will also be refunded to the applicant within 30 days of the withdrawal.

C. Tax Credit Sales

1. Tax credits not previously claimed by a taxpayer against its premium tax may be sold to another Louisiana taxpayer.

2. The sale may involve one or more transferees.

3. Joint notice from the transferor and transferee shall be submitted to the Department of Insurance on a form prescribed by the Department of Insurance within 30 days of the sale.

4. Failure to submit the joint notice of transfer shall result in disallowance of the credit until the taxpayer is in full compliance.

5. The carry forward period is not extended by the sale of the credit to another Louisiana taxpayer.

6. To the extent that the transferor did not have rights to claim or use the credit at the time the credit is sold, the Department of Insurance shall either disallow or recapture the credit from the transferee.

7. Credits may not be claimed on returns that were due prior to January 1, 2014.

8. Credits may not be used to settle outstanding tax liabilities for tax periods beginning prior to January 1, 2013.

9. Transfers of ownership of credits thorough the sale of equity interest in an entity is a sale of the credit. Such transfers shall be treated in the same manner as selling the credits themselves and will require notice to the Department of Insurance in the same manner set forth above.

D. Recapture

1. The Department of Revenue will notify the Department of Insurance of a recapture event.

2. The Department of Insurance shall recapture from the entity that claimed the credit on their return if:

a. any amount of the federal tax credit earned from the qualified equity investment is recaptured pursuant to section 45D of the *Internal Revenue Code*. The amount recaptured shall be in proportion to the federal recapture of the credit.

b. the qualified community development entity fails to invest 100 percent of the purchase price for the qualified equity investment into a qualified active low income community business within one year of initial credit allowance date and maintain this investment throughout the last credit allowance date or compliance period.

3. No recapture shall occur until the qualified community development entity has been given notice of noncompliance by the Department of Revenue and the benefit of 6 months to become compliant.

E. Reporting

1. Within 30 days of the applicant receiving certification for a qualified equity investment, the qualified community development entity must:

a. issue an investment and receive cash for the certified amount;

b. designate the amount as a federal qualified equity investment with the Community Development Financial Institutions Fund;

c. issue Form R-10607 to the investor designating the amount as a state qualified equity investment.

2. Within 5 days of issuing the qualified equity investment, the qualified community development entity will submit:

a. evidence of receipt of cash;

b. a copy of the federal Form 8874A which was issued to the investor;

c. a copy of the state Form R-10607 which was issued to the investor;

d. notice of any transfers of allocation authority as provided in Paragraph B.5.

3. If the requirements of Paragraph E.1 are not met within 30 days of certification of the qualified equity investment, the certification will lapse and the qualified community development entity will have to re-apply to the Department of Revenue for designation of the qualified equity investment.

4. A qualified community development entity that issues a qualified equity investment under R.S. 47:6016.1 shall submit a report to the Department of Revenue within the first 5 business days after the first anniversary date indicating that 100 percent of the qualified equity investment is invested in a qualified active low income community business in Louisiana.

a. The report shall include a bank statement of the qualified community development entity evidencing each qualified low income community investment.

b. The report shall include evidence that the qualified low income community business was and remains active.

c. The report shall include evidence of the total amount of qualified low income community investments received by the qualified active low income community business under the provisions of R.S. 47:6016.1.

5. A qualified community development entity that issues a qualified equity investment under R.S. 47:6016.1

shall issue an annual report within 45 days of the second compliance year. The report shall include:

a. the number of employment positions created and retained as a result of the qualified low income community investments and their average annual salaries;

b. evidence that the qualified active low income community business remains active; and

c. evidence that the qualified low income community investment remains invested in the qualified active low income community business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1519 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 41:555 (March 2015).

Tim Barfield
Secretary

1503#023

RULE

**Department of Revenue
Policy Services Division**

Penalty Waiver (LAC 61:III.2101)

Under the authority of R.S. 47:1502, R.S. 47:1511 and R.S. 47:1603(A), as amended by Act 198 of the 2014 Regular Session of the Louisiana Legislature, effective July 1, 2014, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division adopts LAC 61:III.2101, as amended.

Act 198 of the 2014 Regular Session of the Louisiana Legislature amended and reenacted R.S. 47:1603(A) to provide with respect to the authority of the secretary of the Department of Revenue to collect and enforce the collection of taxes. Act 198 specifically authorizes the secretary to promulgate rules and regulations concerning the waiver of penalties, including but not limited to the establishment of a voluntary disclosure program.

This Rule amends LAC 61:III.2101 to direct taxpayers to rules and regulations promulgated by the Department of Revenue concerning the waiver or remittance of penalties under its voluntary disclosure agreement program.

Title 61

REVENUE AND TAXATION

**Part III. Administrative Provisions and Miscellaneous
Chapter 21. Interest and Penalties**

§2101. Penalty Waiver

A. The secretary may waive a penalty in whole or in part for the failure to file a return on time or the failure to timely remit the full amount due when the failure is not due to the taxpayer's negligence and is considered reasonable. All penalty waiver requests must be in writing and be accompanied by supporting documentation. If the combined penalties for a tax period exceed \$100, all of the facts alleged as a basis for reasonable cause must be fully disclosed in an affidavit sworn before a notary public in the presence of two witnesses and accompanied by any supporting documentation. The affidavit must be signed by the taxpayer, or in the case of a corporation, by an officer of

the corporation. Where the taxpayer or officer does not have personal knowledge of such facts, the sworn affidavit may be signed on the taxpayer's or officer's behalf by a responsible individual with personal knowledge of such facts. In lieu of an affidavit, the taxpayer may submit a request for waiver of penalties for delinquency form signed by the taxpayer, or in the case of a corporation, by an officer of the corporation. Where the taxpayer or officer does not have personal knowledge of such facts, the request for waiver of penalties for delinquency form may be signed on the taxpayer's or officer's behalf by a responsible individual with personal knowledge of such facts. The request for waiver of penalties for delinquency form must be accompanied by any supporting documentation.

B. Before a taxpayer's request for penalty waiver will be considered, the taxpayer must be current in filing all tax returns and all tax, penalties not being considered for waiver, fees and interest due for any taxes/fees administered by the Department of Revenue must be paid.

C. In determining whether or not to waive the penalty in whole or in part, the department will take in account both the facts submitted by the taxpayer and the taxpayer's previous compliance record with respect to all of the taxes/fees administered by the Department of Revenue. Prior penalty waivers will be a significant factor in assessing the taxpayer's compliance record. Each waiver request submitted by the taxpayer will be considered on an individual basis. Each tax period or audit liability will be considered separately in determining whether the penalty amount mandates approval of the waiver by the Board of Tax Appeals. The delinquent filing and delinquent payment penalties will also be considered separately in making this determination.

D. In the case of a request to enter into a voluntary disclosure agreement with the Department of Revenue, the secretary will remit or waive delinquent penalties as provided in LAC 61:III.2103 and/or any other applicable rules and regulations promulgated by the Department of Revenue concerning the waiver or remittance of such penalties under its voluntary disclosure program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1603.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of the Secretary, LR 27:866 (June 2001), amended LR 29:950 (June 2003), amended by the Department of Revenue, Policy Services Division, LR 41:557 (March 2015).

Tim Barfield
Secretary

1503#025

RULE

Department of Revenue Policy Services Division

Voluntary Disclosure Agreements (LAC 61:III.2103)

Under the authority of R.S. 47:1502, R.S. 47:1511, R.S. 47:1603(A), as amended by Act 198 of the 2014 Regular Session of the Louisiana Legislature, effective July 1, 2014, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of

Revenue, Policy Services Division, has adopted LAC 61:III.2103.

Act 198 of 2014 Regular Session of the Louisiana Legislature amended and reenacted R.S. 47:1603(A) to provide with respect to the authority of the secretary of the Department of Revenue to collect and enforce the collection of taxes. For purposes of promoting the effective administration of the tax laws of this State, Act 198 specifically authorizes the secretary to promulgate rules and regulations concerning the waiver of penalties, including but not limited to the establishment of a voluntary disclosure program. To that end the Department of Revenue has adopted this Rule to encourage unregistered business entities and persons who are subject to Louisiana tax or tax collection responsibilities to voluntarily contact the department regarding their unreported Louisiana tax liabilities.

This Rule clarifies the meaning of the phrase "voluntary disclosure agreement" as that term is used in R.S. 47:1580(C)(2) and R.S. 47:1603(A)(2). Additionally, it sets forth the conditions under which an applicant may qualify for a voluntary disclosure agreement, the process for entering into a voluntary disclosure agreement with the Department of Revenue, and the requirements that must be complied with in order for the Department of Revenue to remit or waive payment of the whole or any part of the penalties under a valid voluntary disclosure agreement.

Title 61

REVENUE AND TAXATION

Part III. Administrative Provisions and Miscellaneous Chapter 21. Interest and Penalties

§2103. Voluntary Disclosure Agreements

A. Definitions. For purposes of this Section, the following terms have the meanings ascribed to them.

Applicant—any association, corporation, estate, firm, individual, joint venture, limited liability company, partnership, receiver, syndicate, trust, or any other entity, combination or group that submits or arranges through a representative for the submission of an application to request a voluntary disclosure agreement for a tax administered by the department. If the application is submitted through a representative, anonymity of the *applicant* can be maintained until the voluntary disclosure agreement is executed by the taxpayer and the secretary.

Application—a completed "application to request voluntary disclosure agreement" (Form R-60010) or an "application for multistate voluntary disclosure" filed with the Multistate Tax Commission's National Nexus Program and all supplemental information including, but not limited to, cover letters, schedules, reports, and any other documents that provide evidence of the applicant's qualification for a voluntary disclosure agreement. Supplemental information requested by the department and timely provided by the applicant shall be considered part of the *application*.

Application Date—the date a fully completed application requesting a voluntary disclosure agreement is received by the department. Supplemental information requested by the department and timely provided by the applicant shall not extend or delay the *application date*.

Delinquent Penalty—any specific penalty imposed pursuant to R.S. 47:1603 or 1604.1 as a result of the failure

of the taxpayer to timely make any required return or payment.

Department—the Louisiana Department of Revenue.

Look-Back Period—a period for which a qualified applicant agrees to disclose and pay the tax and interest due. The *look-back period* shall be as follows.

a. Except for taxes collected and not remitted, the *look-back period* shall include the current calendar year up to the date of registration with the department and the three immediately preceding calendar years.

b. For taxes collected and not remitted, the *look-back period* shall include all periods in which tax was collected and not remitted. This *look-back period* shall not affect the *look-back period* described in Subparagraph a of this Paragraph for undisclosed liabilities unrelated to tax collected and not remitted.

c. For discontinued, acquired, or merged entities, the *look-back period* shall include undisclosed liabilities in the last calendar year in which the qualified applicant had nexus within this state and the three immediately preceding calendar years.

d. The secretary and the applicant may agree to adjust a *look-back period* to include other years.

e. The *look-back period(s)* shall be established at the time the secretary or his authorized representative signs the voluntary disclosure agreement.

Non-Qualified Applicant—includes any taxpayer who:

a. is registered with the department as of the application date but failed to file returns or underreported the amount due for a tax for which a voluntary disclosure agreement is requested;

b. submitted returns, extensions, payments, or was registered more than 60 days prior to the application date for a tax for which a voluntary disclosure agreement is requested;

c. has been contacted by the department concerning a liability regarding a tax for which a voluntary disclosure agreement is requested, including but not limited to a potential liability or contact for the purpose of performing an audit of the taxpayer's records; or

d. is affiliated with another entity that has been contacted by the department for the purpose of performing an audit of the affiliated entity's records. A *non-qualified applicant* under this subparagraph may become a qualified applicant after the audit of the affiliated entity has been completed, provided the applicant is not disqualified under the criteria listed in Subparagraphs a through c of this Paragraph.

Qualified Applicant—any taxpayer, other than a non-qualified applicant, subject to the reporting and payment of a tax imposed by the state of Louisiana. Notwithstanding anything to the contrary, any applicant that entered into a voluntary disclosure agreement with the department prior to July 1, 2014 shall be deemed a *qualified applicant*. Registration with the department for reporting and payment of any tax for which a voluntary disclosure agreement is not being requested will not disqualify a *qualified applicant* from entering into a voluntary disclosure agreement.

Secretary—the secretary of the Louisiana Department of Revenue and any duly authorized representative(s).

Signing Date—the date the voluntary disclosure agreement is signed by the secretary or his authorized representative.

Undisclosed Liability—a tax liability that became due during the look-back period and which has not been determined, calculated, researched, identified by or known to the department at the time of disclosure and which would likely not be discovered through normal administrative activities. The *undisclosed liability* must exceed \$500 during the look-back period to qualify for consideration of a voluntary disclosure agreement. The secretary has the discretion to conduct an audit of the applicant's records to confirm the amount of the *undisclosed liability*.

Voluntary Disclosure Agreement—a contractual agreement between a qualified applicant and the secretary wherein the qualified applicant agrees to pay the tax and interest due on an undisclosed liability, and the secretary agrees to remit or waive payment of the whole or any part of the penalty associated with that liability and to restrict collection of prior liabilities to the look-back period, except for periods in which tax was collected and not remitted.

B. Acceptance of Offer to Enter into Voluntary Disclosure Agreement

1. After the secretary has reviewed the application and determined from the information included therein that the applicant qualifies for a voluntary disclosure agreement, the secretary shall send a copy of the agreement to the applicant or the applicant's representative for signature.

2. The applicant or applicant's representative, acting under the authority of a power of attorney, must sign the agreement and return it to the secretary within 30 calendar days of the postmark or e-mail date, or within any extension of time authorized by the secretary beyond 30 calendar days from the postmark or e-mail date.

3. After the signed agreement is received from the applicant, the secretary or his authorized representative will sign the agreement and return a copy of the agreement which has been signed by both parties to the applicant.

4. If the application was submitted to the Multistate Tax Commission, the applicant shall return signed agreements in accordance with policies established by the commission.

C. Waiver or Remittance of Payment of Penalty

1. After all tax and interest due for the look-back period have been paid, the delinquent penalties will be remitted or waived, unless the tax disclosed was collected but not remitted.

2. Where the tax was collected but not remitted, the secretary may consider waiving payment of the whole or any part of the delinquent penalties on a case-by-case basis.

D. Payment of Tax, Interest, and Penalty Due

1. All tax due for the look-back period must be paid within 60 calendar days of the secretary's signing date of the voluntary disclosure agreement or within any extension of time authorized by the secretary beyond 60 calendar days of the signing date. All schedules or returns required by the secretary to show the amount of tax due must be included with this payment.

2. The secretary shall compute the interest and penalty due for the tax disclosed by the applicant and send a schedule by mail or email to the applicant or his

representative showing the amount of tax, interest and delinquent penalty due. The applicant must submit payment of the full amount of the interest *and* any penalties not remitted or waived within 30 calendar days from the postmark or e-mail date of the schedule or, if applicable, within any extension of time granted by the secretary. If payment of the full amount due has not been received at the expiration of such time, the secretary may void the agreement.

E. The secretary may disclose tax information to the Multistate Tax Commission or any political subdivision of the state which has entered into an information exchange agreement with the department in order to coordinate the delivery and acceptance of applications for voluntary disclosure agreements. Any information so furnished shall be considered and held confidential and privileged by the Multistate Tax Commission or the political subdivision to the extent provided by R.S. 47:1508.

F. The terms of the voluntary disclosure agreement shall be valid, binding, and enforceable by and against all parties, including their transferees, successors, and assignees.

G. The secretary reserves the right to void the voluntary disclosure agreement if the applicant fails to comply with any of the conditions outlined in the agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1502, R.S. 47:1511, R.S. 47:1580, and R.S. 47:1603.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 41:558 (March 2015).

Tim Barfield
Secretary

1503#024

RULE

Department of Transportation and Development Office of Operations

Louisiana Transportation Authority (LAC 70:XL101)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 47:820.5.6, the Louisiana Transportation Authority has amended Chapter 1 to allow the LTA to adjust the amount charged for a toll tag to reflect the cost incurred by LTA to purchase a toll tag.

Title 70

TRANSPORTATION

Part XI. Louisiana Transportation Authority

Chapter 1. Toll Exemption—LA 1

§101. Exempt Entities

A. - A.1.e. ...

f. A reasonable fee shall be charged to offset the cost of the toll tags.

1.g. - 2.d. ...

e. A reasonable fee shall be charged to offset the cost of the toll tags.

2.f. - 3.b. ...

c. A reasonable fee shall be charged to offset the cost of the toll tags.

3.d. - 4.a.ii. ...

iii. A reasonable fee shall be charged to offset the cost of the toll tags.

a.iv. - b.ii. ...

iii. A reasonable fee shall be charged to offset the cost of the toll tags.

4.b.iv. - 5.c. ...

d. A reasonable fee shall be charged to offset the cost of the toll tags.

5.e. - 7.c. ...

d. A reasonable fee shall be charged to offset the cost of the toll tags.

7.e. - 8.c. ...

d. A reasonable fee shall be charged to offset the cost of the toll tags.

8.e. - 9.a. ...

b. A reasonable fee shall be charged to offset the cost of the toll tags.

c. - d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:820.5.4 and 820.5.5.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Transportation Authority, LR 38:2380 (September 2012), amended by the Department of Transportation and Development, Office of Operations, LR 41:560 (March 2015).

Sherri H. LeBas
Secretary

1503#026

RULE

Workforce Commission Office of Workers' Compensation

Appeals of the Decision of the Medical Director and
Preliminary Determinations of the Average Weekly Wage
(LAC 40:I.5507)

This Rule is promulgated by the authority vested in the director of the Office of Workers' Compensation found in R.S. 23:1310(C). It enacts corrections to Subpart 3 of Title 40 of the *Louisiana Administrative Code*, otherwise known as the "Hearing Rules" for the workers' compensation administrative law courts to provide a procedure for the orderly handling of disputes brought to the Workers' Compensation courts by the filing of Form LWC-WC-1002, as provided by R.S. 23:1201.1, both as amended by Act 337 of the 2013 Regular Session of the Legislature of the state of Louisiana. Act 337 allows for a "preliminary" determination of the correct amount of any payment made under that chapter for the purposes of insuring the correct payment and relieving the payor of exposure for future penalties.

Title 40

LABOR AND EMPLOYMENT

Part I. Workers Compensation Administration

Subpart 3. Hearing Rules

Chapter 55. General Provisions

Subchapter C. Commencement

§5507. Commencement of a Claim

A. "Form LWC-WC-1008" shall be the form to initiate a claim or dispute arising out of chapter 10 of title 23 of the *Louisiana Revised Statutes* of 1950, except that:

B. - C. ...

D. Any request for a preliminary determination pursuant to *Louisiana Revised Statutes* title 23, section 1201.1 shall

be made in the answer or amended answer and shall be accompanied by a copy of the LWC-WC-1002 and notice of disagreement, along with a motion and order to set telephone status conference attached and shall proceed with the following steps.

1. A telephone conference shall be set within 15 days from receipt of the answer or amended answer with accompanying attachments. A preliminary determination hearing shall be set within 90 days from telephone status conference. The deadline for any discovery shall be 30 days before the preliminary determination hearing. The parties must exchange evidence 15 days before the hearing, with copies of the exhibits, exhibit list and memorandum sent to the presiding workers' compensation judge.

2. The workers' compensation judge or the judge's designee, shall advise all parties of the deadlines set forth hereinabove in the telephone status conference.

3. A scheduling conference order shall be forwarded to the parties within three days of the telephone status conference. The order shall include a list of issues to be determined, the date of the scheduled hearing, the deadline for discovery, the deadline for the exchange of exhibits, the deadline for the submission of exhibits and the deadline for the submission of memoranda to the court.

4. After the preliminary determination hearing, the court shall forward a written preliminary determination to the parties within 30 days of the hearing.

5. A notice shall accompany the written preliminary determination. The notice shall advise the parties of their options to accept or reject the finding and it shall advise the parties that, if the court does not receive written notification within 15 days of further action by the parties, the court will close the file or proceed to trial on the merits on all remaining issues.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1(C).

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:265 (February 1999) amended LR 25:1860 (October 1999), LR 33:652 (April 2007), amended by the Workforce Commission, Office of Workers' Compensation, LR 37:1626 (June 2011), LR 41:560 (March 2015).

Patrick Robinson
Acting Director

1503#015

Notices of Intent

NOTICE OF INTENT

Office of the Governor Division of Administration Office of State Procurement

Procurement

(LAC 34:V.301, 303, 905, 1111, and Chapter 25)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Office of the Governor, Division of Administration, Office of State Procurement, proposes to amend Chapters 3, 9, 11, and 25 of LAC 34:V, Procurement.

The amendment to LAC 34:V.301 is necessary to correct an inconsistency between the rule as now written and governing law (see R.S. 39:1594).

The amendment to LAC 34:V.303 is necessary to be consistent with the provisions of R.S. 39:1594.

The amendment to LAC 34:V.905 is necessary to be consistent with the provisions of R.S. 39:1597.

The amendment to LAC 34:V.1111 is necessary to be consistent with the provisions of R.S. 39:1598.

The amendment to LAC 34:V.2506 is necessary to be consistent with the delegation powers of the state chief procurement officer found in R.S. 39:1566.

The amendment to LAC 34:V.2539 is necessary to make it consistent with R.S. 39:1672.

The amendment to LAC 34:V.2542 is necessary to make it consistent with current law and with LAC 34:V.905 and LAC 34:V.1111.

LAC 34:V.2545 is being amended as it is repetitive of the requirement already stated in R.S. 39:1595.

Title 34

GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY CONTROL

Part V. Procurement

Chapter 3. Competitive Sealed Bidding

§301. Content of the Invitation for Bids [Formerly LAC 34:I.501]

A. Invitation for Bids

1. Purchases where the estimated cost is over \$25,000 shall be advertised in accordance with R.S. 39:1594. All advertisements or written invitations for bids shall contain general descriptions of the classes of commodities on which bids are solicited and shall state:

- the date and time when bids will be received, opened and publicly read;
- the names and locations of the state agencies for which the purchases are to be made;
- where and how specifications and bid forms may be obtained.

2. The invitation for bids shall be on the state's standard forms containing all pertinent information and shall be full and complete including specifications, quantities, units, packaging and number of containers to the case.

B. Content. The invitation for bids shall include the following:

- the purchase description, evaluation factors, delivery or performance schedule, and inspection and acceptance requirements not included in the purchase description; and
- the contract terms and conditions, including warranty and bonding or other security requirements, as applicable.

C. Incorporation by Reference. The invitation for bids may incorporate documents by reference provided that the invitation for bids specifies where such documents can be obtained.

D. Special Conditions. If any special conditions are to apply to a particular contract, they shall be included in the invitation for bid.

E. Types of Purchases. Purchases are made in two different ways.

1. *Open Market*—a purchase made other than under a schedule or term contract.

2. *Term Contracting*—a technique by which a source of supply is established for a specific period of time. Term contracts are usually based on indefinite quantities to be ordered "as needed," although such contracts can specify definite quantities with deliveries extended over the contract period.

F. Request for Proposals. In the event the state chooses to use the request for proposals method of procurement pursuant to R.S. 39:1595, the procurement shall be made in accordance with LAC 34:V. 2545.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 8:328 (July 1982), amended LR 21:566 (June 1995), repromulgated LR 40:1349 (July 2014), LR 40:2549 (December 2014), amended by the Office of the Governor, Division of Administration, Office of State Procurement. LR 41:

§303. Bidding Time

[Formerly LAC 34:I.503]

A. Bidding time is the period of time between the date of distribution of the invitation for bids and the date set for opening of bids. In each case, bidding time will be set to provide bidders a reasonable time to prepare their bids. For bids over \$25,000, a minimum of 10 days should be provided unless the chief procurement officer or his designee deems that a shorter time is necessary for a particular procurement. However, in no case shall the bidding time be less than 10 days, except as provided in R.S. 39:1598 and Chapter 11 of these rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 8:328 (July 1982), amended LR 21:566 (June 1995), repromulgated LR 40:1349 (July 2014), LR 40:2550 (December 2014), amended by the Office of the Governor, Division of Administration, Office of State Procurement, LR 41:

Chapter 9. Sole Source Procurement

§905. Conditions for Use of Sole Source Procurement [Formerly LAC 34:I.905]

A. Determination

1. The determination as to whether a procurement or a professional, personal, consulting, or social services contract award shall be made as a sole source shall be made by the state chief procurement officer, a chief procurement officer or either officer's designee upon sufficient factors and cause, and shall be in the best interests of the state. Such determination shall be in writing. Such officer may specify the application of such determination and its duration. In cases of reasonable doubt, competition should be solicited. Any request by a using agency that a procurement be restricted to one potential contractor shall be accompanied by an explanation as to why no other will be suitable or acceptable to meet the need.

A.2. - B.3.d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 8:331 (July 1982) amended LR 21:566 (June 1995), repromulgated LR 40:1356 (July 2014), amended by the Office of the Governor, Division of Administration, Office of State Procurement. LR 41:

Chapter 11. Emergency Procurement

§1111. Determination and Record of Emergency Procurement

[Formerly LAC 34:I.1111]

A. Determination. The procurement officer or the agency official responsible for procurement shall make a written determination stating the basis for any emergency procurement or award of a professional, personal, consulting or social services contract, and for the selection of a particular contractor. Such determination shall be sent promptly to the state chief procurement officer or chief procurement officer as appropriate for approval or rejection.

B. - B.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 8:332 (July 1982), repromulgated LR 21:566 (June 1995), LR 40:1357 (July 2014), amended by the Office of the Governor, Division of Administration, Office of State Procurement. LR 41:

Chapter 25. Procurement of Professional, Personal, Consulting, Social Services, and Energy Efficiency Contracts

Subchapter A. General Provisions

§2506. Contracts Approved Under Delegation of Authority

[Formerly LAC 34:V.106]

A. The state chief procurement officer may grant delegations of authority to an agency director to approve contracts without the necessity of forwarding a copy to the Office of State Procurement. The agency shall maintain a file for all such delegated contracts. This file shall be available for inspection by the Office of State Procurement upon request.

B. The using agency shall submit a quarterly report to the Office of State Procurement. This report shall contain a listing of all delegated contracts to include: the name of contractor, amount of contract, specific nature of services rendered, date of contract, and total dollar amount of all delegated contracts entered into by the using agency for that quarter. If no such contracts have been entered into during this period, a report shall still be submitted notifying the Office of State Procurement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1490(B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Contractual Review, LR 7:179 (April 1981), amended LR 8:591 (November 1982), LR 10:455 (June 1984), LR 11:1068 (November 1985), LR 17:265 (March 1991), repromulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 40:2561 (December 2014), amended LR 40:2545 (December 2014), amended by the Office of the Governor, Division of Administration, Office of State Procurement. LR 41:

§2539. Suspension, Debarment and Reinstatement [Formerly LAC 34:V.139]

A. Authority. After reasonable notice to the person involved and reasonable opportunity for that person to be heard, the state chief procurement officer shall have authority to suspend or debar an individual or business for cause from consideration for a contract, in accordance with the provisions of R.S. 39:1672.

B. Reinstatement

1. If the commissioner finds that the state chief procurement officer was in error, then he may reinstate said individual or business. If the commissioner affirms the decision of the state chief procurement officer that decision is final and conclusive.

2. The state chief procurement officer, upon request of a debarred individual or business shall review the requesting debarred contractor's file on an annual basis, and may reinstate said contractor for future consideration if he believes the circumstances warrant reinstatement and it would be in the best interest of the state. A list of debarred individuals and businesses shall be kept by the Office of State Procurement and made available upon request to state agencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1490(B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Contractual Review, LR 8:594 (November 1982), amended LR 10:458 (June 1984), LR 11:1071 (November 1985), repromulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 40:2566 (December 2014), amended by the Office of the Governor, Division of Administration, Office of State Procurement. LR 41:

Subchapter B. Contracts Let Via a Request for Proposals Process

§2542. Source Selection Methods [Formerly LAC 34:V.142]

A. Pursuant to R.S. 39:1620-1621, professional or personal services contracts for any amount, consulting services contracts less than \$50,000 for a twelve-month period, and social services contracts meeting one of the

requirements of R.S. 39:1619(B) may be awarded without competitive negotiation or bidding; therefore this Section shall be applicable to consulting services contracts for \$50,000 or more and which are not exempted by R.S. 39:1621, and social services contracts for \$249,999 or more which are not exempted by R.S. 39:1619(B).

1. **Emergency Awards.** An emergency award of a personal, professional, consulting, or social services contract shall be made in accordance with LAC 34:V.1111.

2. **Sole Source Awards.** A sole source award of a personal, professional, consulting, or social services contract shall be made in accordance with LAC 34:V.905.

3. **Record.** A record of emergency procurements and sole source procurements shall be maintained by the Office of State Procurement, and shall contain:

- a. contractor's name;
- b. the amount of the contract;
- c. services to be rendered;
- d. reason for the emergency or sole source procurement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1490(B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Contractual Review, LR 7:179 (April 1981), amended LR 8:594 (November 1982), LR 10:459 (June 1984), LR 11:1071 (November 1985), LR 13:655 (November 1987), repromulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 40:2566 (December 2014), amended by the Office of the Governor, Division of Administration, Office of State Procurement, LR 41:

§2545. Request for Proposals

[Formerly LAC 34:V.145]

A. Unless otherwise stated, this Section applies to all requests for proposals (RFP) solicitations issued under any provision of chapter 17, title 39, of the *Louisiana Revised Statutes*.

1. In addition to the requirements of R.S. 39:1595 and these regulations, a request for proposals should:

- a. specifically define the task and desired results of project;
- b. identify agency liaison personnel and resources available to the contractor;
- c. state approximately when the contractor can begin the work, plus an estimate of the time necessary to accomplish the work, if applicable;
- d. specify applicable procedures concerning billing, documentation requirements, progress reports, and final reports, if applicable;
- e. specify that a minimum of two copies of the proposal be submitted;
- f. inform the potential contractors of the criteria and the selection methodology and the weight which will be applied to each significant evaluation criteria to be used in evaluating the proposals' responsiveness to the RFP;
- g. require potential contractors to include the following information in their proposals:

- i. a description of the firm's qualifications to include a specific list of personnel to be used in the services and their qualifications (at least list the number and the qualifications of each position). However, a résumé will be

required on each of the key personnel. Additionally for consulting services, the contractor must stipulate that these personnel will not be removed from the contract without prior approval of the using agency;

- ii. a list of the agencies with names and contact persons, for whom similar work has been done;

- iii. if applicable, the length of time needed for the services, broken down by phases, if phasing is necessary;

- iv. the proposed methodology for accomplishing the services with a precise statement of what the state will receive as an end product of the services (this is sometimes referred to as the technical section of the proposal);

- v. for consulting services only, an itemized cost statement showing various classes of man-hours at appropriate rate, delineated by phases, if phasing is used, and an itemized listing of all other expenses or fees that are expected to be paid by the state and a complete breakdown of consultant overhead rate, if applicable;

- vi. for social services only, a detailed budget or other cost breakdown as may be required by the using agency and/or the federal government.

2. The final selection of a contractor shall be made in accordance with the selection criteria established in the RFP. However, no contract may be enforced against the state until approval of the contract has been granted by the Office of State Procurement. When a final selection has been made, but prior to notice of award, the contract file containing that information outlined in Paragraphs 1-2 above, including the request for proposals, along with a selection memorandum justifying the final selection shall be sent to the Office of State Procurement for final concurrence. The selection memorandum shall include, but not be limited to:

- a. a list of criteria used along with the weight assigned each criteria;

- b. scores of each proposal considered in each of the categories listed above along with overall scores of each proposal considered;

- c. a narrative justifying selection.

3. After final negotiation and execution, the contract shall be sent to the Office of State Procurement for final review and approval.

4. **Right to Protest.** Any person who is aggrieved in connection with the request for proposal or award may protest and appeal pursuant to the provisions of R.S. 39:1671, 1681, 1683, 1691, and 1692.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1490(B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Contractual Review, LR 4:495 (December 1978), amended LR 7:180 (April 1981), LR 8:594 (November 1982), LR 10:459 (June 1984), LR 11:1072 (November 1985), repromulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 40:2567 (December 2014), amended LR 40:2545 (December 2014), amended by the Office of the Governor, Division of Administration, Office of State Procurement, LR 41:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

It is anticipated that the proposed action will have no significant impact on:

1. household income, assets, and financial security;
2. early childhood or educational development;
3. employment and workforce development;
4. taxes and tax credits; or
5. child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Statement

The impact of the proposed Rule on small businesses has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act.

The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments to George Grazioso, Office of State Procurement, P.O. Box 94095, Baton Rouge, LA 70804-9095. He is responsible for responding to inquiries regarding this proposed Rule. All comments must be received by April 10, 2015, by close of business.

Jan B. Cassidy
Assistant Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Procurement

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes are anticipated to result in no cost or savings for either state or local governmental entities at the present time. Act 864 of 2014 merged the LA Procurement Code and the LA Code for Procurement of Professional, Personal, Consulting and Social Services and placed all authority, duties and responsibilities under a newly created central purchasing agency identified as the Office of State Procurement and the newly created State Chief Procurement Office position. In December 2014, the two sets of LAC rules governing procurement were restructured as LAC 34:V.101 through 3301. This restructuring has necessitated the following proposed rule changes to reflect changes in statute section numbers, rule section number changes, and changes in wording brought about by Act 864 and the December 2014 rule restructuring. The proposed changes also eliminate repetition in the resulting single set of rules.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will have no effect on revenue collections of state or local governmental entities.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no specific costs to directly affected persons or non-governmental groups as a result of the proposed rule changes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment as a result of the proposed rule changes.

Jan B. Cassidy
Assistant Commissioner
1503#010

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Nursing

Licensure by Endorsement (LAC 46:XLVII.3327)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 37:918, that the Louisiana State Board of Nursing (LSBN) proposes to amend Chapter 33 of its rules particular, by amending §3327.A.9. The proposed Rule will allow the Louisiana State Board of Nursing the ability to accept transcripts that are provided by third party vendors. Universities across the country utilize the electronic student records exchange system for verifying education transcripts. Using third party contractors allows universities to forego paper systems and frees up their resources for other academic activities related to students' enrollment.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLVII. Nurses: Practical Nurses and Registered Nurses

Subpart 2. Registered Nurses

Chapter 33. General

Subchapter C. Registration and Registered Nurse Licensure

§3327. Licensure by Endorsement

A. - A.8. ...

9. completion of the required application for endorsement, including a criminal records check and the submission of required documents, within one year. School records submitted by the applicant will not be accepted; and

A.10. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918, 920 and 921.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 7:77 (March 1981), amended by the Department of Health and Hospitals, Board of Nursing, LR 21:804 (August 1995), LR 23:960 (August 1997), LR 24:1293 (July 1998), LR 41:

Family Impact Statement

The proposed additions and/or changes to the rules of the board, Louisiana State Board of Nursing should not have any

known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. a family's earnings and budget;
5. the behavior and personal responsibility of the children; or
6. the family's ability or that of the local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described on R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments on the proposed Rule to Karen C. Lyon, 17373 Perkins Road, Baton Rouge, LA 70810, or by facsimile to (225) 755-7585. All comments must be submitted by 5 p.m. on or before April 10, 2015.

Karen C. Lyon
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Licensure by Endorsement

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Other than publication costs associated with the proposed rule changes, which are estimated to be \$216 in FY15, it is not anticipated that state or local governmental units will incur any other costs or savings as a result of promulgation of the proposed rule. The proposed change provides a mechanism allowing board staff to accept third party transcripts when processing applications for Louisiana Registered Nurse licensure by endorsement. This rule does not require an increase or decrease in workload responsibilities to the Board.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will not affect state or local governmental revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change is not anticipated to result in costs and/or economic benefits to any person or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change has no anticipated effect on competition or employment.

Karen C. Lyon
Executive Director
1503#014

John D. Carpenter
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing

Medicaid Eligibility
Provisional Medicaid Program
(LAC 50:III.2305)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt LAC 50:III.2305 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Section 1902(a)(10) of title XIX of the Social Security Act and section 435.210 of title 42 of the *Code of Federal Regulations* (CFR) provides states with the option to cover individuals under their Medicaid state plan who are aged or have a disability, and who meet the income and resource requirements for supplemental security income (SSI) cash assistance. These individuals must be referred to the Social Security Administration (SSA) for assistance as there currently is no eligibility category under the Medicaid Program to provide them with Medicaid benefits. Their Medicaid eligibility is contingent upon a favorable decision for SSI cash assistance.

Pursuant to section 1902(a)(10) of title XIX of the Social Security Act and 42 CFR 435.210, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which adopted provisions to include this optional coverage group under the Medicaid state plan by implementing the Provisional Medicaid Program (*Louisiana Register*, Volume 40, Number 2). This Medicaid program provides Medicaid-only benefits to eligible individuals.

The department subsequently promulgated an Emergency Rule which amended the provisions of the February 9, 2014 Emergency Rule in order to clarify these provisions (*Louisiana Register*, Volume 41, Number 3). This proposed Rule is being promulgated to continue the provisions of the March 20, 2015 Emergency Rule.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part III. Eligibility
Subpart 3. Eligibility Groups and Factors
Chapter 23. Eligibility Groups and Medicaid
Programs

§2305. Provisional Medicaid Program

A. The Provisional Medicaid Program provides Medicaid-only coverage to individuals who:

1. are aged or have a disability; and
2. meet income and resource requirements for supplemental security income (SSI) cash assistance.

B. The Provisional Medicaid Program provides coverage to individuals with income equal to or less than the federal benefit rate (FBR), and resources that are equal to or less than the resource limits of the SSI cash assistance program.

C. A certification period for the Provisional Medicaid Program shall not exceed 12 months.

D. Retroactive coverage up to three months prior to the receipt of the Medicaid application shall be available to recipients in the Provisional Medicaid Program.

1. Any retroactive coverage period shall not be prior to the implementation date of the Provisional Medicaid Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 by improving access to health care for individuals who are aged or have a disability, and meet the requirements for SSI cash assistance.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 as it will offer financial relief from health care costs for individuals who meet the requirements.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy is responsible for

responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, April 29, 2015 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Kathy H. Kliebert
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Medicaid Eligibility
Provisional Medicaid Program**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in estimated state general fund programmatic costs of \$33,161,013 for FY 14-15, \$44,569,491 for FY 15-16 and \$45,906,576 for FY 16-17. It is anticipated that \$432 (\$216 SGF and \$216 FED) will be expended in FY 14-15 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.06 percent in FY 14-15 and 62.17 percent in FY 15-16. The enhanced rate of 62.11 percent for the first three months of FY 15 is the federal rate for disaster-recovery FMAP adjustment states.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$54,242,680 for FY 14-15, \$73,245,711 for FY 15-16 and \$75,443,082 for FY 16-17. It is anticipated that \$216 will be expended in FY 14-15 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.06 percent in FY 14-15 and 62.17 in FY 15-16. The enhanced rate of 62.11 percent for the first three months of FY 15 is the federal rate for disaster-recovery FMAP adjustment states.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule continues the provisions of the March 20, 2015 Emergency Rule which amended the provisions of the February 9, 2014 Emergency Rule which adopted provisions to provide Medicaid-only benefits to eligible individuals who meet the income and resource requirements for Supplemental Security Income (SSI) cash assistance. It is anticipated that implementation of this proposed rule will increase program expenditures in the Medicaid Program by approximately \$87,403,261 for FY 14-15, \$117,815,202 for FY 15-16 and \$121,349,658 for FY 16-17.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition and employment.

J. Ruth Kennedy
Medicaid Director
1503#044

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing

Professional Services Program
Physician Services
Reimbursement Rate Adjustment
(LAC 50:IX.15113)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:IX.15113 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing provides Medicaid reimbursement to physicians and nurse midwives for the delivery of infants. The department promulgated a Rule which amended the provisions governing the reimbursement methodology for physician services in order to reduce the reimbursement rates and revise the formatting of these provisions (*Louisiana Register*, Volume 39, Number 12).

The department now proposes to amend the provisions governing the reimbursement methodology for physician services in order to increase the reimbursement rate paid to physicians for the administration of the drug, 17 Hydroxyprogesterone (17P). The drug, 17P, is a primary tool utilized to reduce the occurrences of premature births in pregnant women with a history of pre-term delivery. With its increased use, the department anticipates a dramatic reduction in pre-term births which directly correlates to an expected reduction in the high costs to the Medicaid Program associated with the treatment of pre-term babies.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part IX. Professional Services Program

Subpart 15. Reimbursement

Chapter 151. Reimbursement Methodology

Subchapter B. Physician Services

§15113. Reimbursement

A. - L.3. ...

M. Effective for dates of service on or after June 20, 2015, the reimbursement for the physician-administered drug, 17 Hydroxyprogesterone (17P), shall increase to \$69 per dose.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1252 (June 2010), amended LR 36:2282 (October 2010), LR 37:904 (March 2011), LR 39:3300, 3301 (December 2013), LR 41:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule may have a positive impact on family functioning, stability or autonomy as described in R.S. 49:972 by reducing the risk of premature births.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule may have a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 by reducing the financial burden on families that incur costs associated with children born prematurely.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, and may reduce the total direct or indirect cost to the provider to provide the same level of service, and enhance the provider's ability to provide the same level of service since this proposed Rule increases the payment to providers for the same services they already render.

Public Comments

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday April 29, 2015, at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing

Kathy H. Kliebert
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Professional Services Program Physician Services—Reimbursement Rate Adjustment

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will result in estimated net state general fund programmatic savings of \$7,698 for FY 14-15, \$97,532 for FY 15-16 and \$100,458 for FY 16-17. Costs associated with increasing the rate for physician-administered 17 Hydroxyprogesterone (17P)

will be directly offset by a larger savings realized from a reduction in expenditures for the treatment of premature babies in the Hospital and Professional Services Programs. It is anticipated that \$432 (\$216 SGF and \$216 FED) will be expended in FY 14-15 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.17 percent in FY 15-16. The enhanced rate of 62.11 percent for the first three months of FY 15 is the federal rate for disaster-recovery FMAP adjustment states.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately \$12,729 for FY 14-15, \$160,285 for FY 15-16 and \$165,094 for FY 16-17. It is anticipated that \$216 will be collected in FY 14-15 for the federal share of the administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.17 percent in FY 15-16. The enhanced rate of 62.11 percent for the first three months of FY 15 is the federal rate for disaster-recovery FMAP adjustment states.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule amends the provisions governing the reimbursement methodology for physician services in order to increase the reimbursement rate for the administration of the drug, 17P, which is utilized as a treatment to reduce premature births in pregnant women with a history of pre-term delivery. It is anticipated that implementation of this proposed rule will reduce programmatic expenditures in the Medicaid Program by approximately \$20,859 for FY 14-15, \$257,817 for FY 15-16 and \$265,552 for FY 16-17. The expected net savings in the Professional Services Program is due to a corresponding reduction in costs in the Hospital and Professional Services Programs as a result of reducing the number of pre-term births and the treatment of premature babies.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, it is anticipated that the implementation of this proposed rule may have a positive effect on employment as it will increase payments for the physician-administered 17P drug. The increase in payments may improve the financial standing of physicians and could possibly cause an increase in employment opportunities.

J. Ruth Kennedy
Medicaid Director
1503#045

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Transportation and Development Professional Engineering and Land Surveying Board

Experience Credit for Graduate-Level Engineering Degree (LAC 46:LXI.1503)

Under the authority of the Louisiana professional engineering and land surveying licensure law, R.S. 37:681 et seq., and in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given

that the Louisiana Professional Engineering and Land Surveying Board has initiated procedures to amend its rules contained in LAC 46:LXI.1503.

This is a technical revision of existing rules under which LAPELS operates. The revision makes it clear that an applicant for professional engineer licensure who has obtained a graduate-level engineering degree following a bachelor's degree from an EAC/ABET accredited engineering curriculum will be allowed a greater amount of experience credit than other applicants.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXI. Professional Engineers and Land Surveyors

Chapter 15. Experience

§1503. Graduate-Level Engineering Degree

A. An applicant who has obtained a master's degree in engineering which has followed a baccalaureate degree in engineering from an EAC/ABET accredited engineering curriculum may use the master's degree for credit for one year's experience. An applicant who has obtained an earned doctoral degree in engineering which has followed a baccalaureate degree in engineering from an EAC/ABET accredited engineering curriculum may use the doctoral degree for credit for two years' experience. The two-year's credit for the doctoral degree includes the one year for a master's degree.

B. An applicant who has obtained an earned doctoral degree in engineering which has followed either a baccalaureate degree in engineering from a non-accredited engineering curriculum or a baccalaureate degree in a related science or engineering technology curriculum may use the doctoral degree for credit for one year's experience.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 3:502 (December 1977), amended LR 5:112 (May 1979), LR 6:735 (December 1980), LR 7:647 (December 1981), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1031 (July 2001), LR 30:1715 (August 2004), LR 41:

Family Impact Statement

In accordance with R.S. 49:953(A)(1)(a)(viii) and 972, the following Family Impact Statement is submitted with the Notice of Intent for publication in the *Louisiana Register*. The proposed Rule has no known impact on family formation, stability or autonomy.

Poverty Impact Statement

In accordance with R.S. 49:953(A)(1)(a)(ix) and 973, the following Poverty Impact Statement is submitted with the Notice of Intent for publication in the *Louisiana Register*. The proposed Rule has no known impact on child, individual or family poverty in relation to individual or community asset development.

Provider Impact Statement

In accordance with HCR No. 170 of the 2014 Regular Session, the following Provider Impact Statement is submitted with the Notice of Intent for publication in the *Louisiana Register*. The proposed Rule has no known effect on: (a) the staffing level requirements or qualifications

required to provide the same level of service; (b) the cost to the provider to provide the same level of service; or (c) the ability of the provider to provide the same level of service.

Public Comments

Interested parties are invited to submit written comments on the proposed Rule through April 10, 2015 at 4:30 p.m., to Donna D. Sentell, Executive Director, Louisiana Professional Engineering and Land Surveying Board, 9643 Brookline Avenue, Suite 121, Baton Rouge, LA 70809-1433.

Donna D. Sentell
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Experience Credit for Graduate-Level Engineering Degree

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation costs or savings to state or local governmental units resulting from this proposed rule change. The proposed rule change clarifies that an applicant for professional engineer licensure who has obtained a graduate-level engineering degree following a bachelor's degree from an EAC/ABET accredited engineering curriculum

will receive specified experience credits associated with the graduate-level degree (master's or doctoral).

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units as a result of this proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will award experience credit to certain applicants for professional engineer licensure who have obtained a graduate-level engineering degree following a bachelor's degree from an EAC/ABET accredited engineering curriculum. Those applicants will have an accelerated path to licensure compared to existing rules, as the four-year progressive engineering experience requirement will be effectively reduced by one or two years for their master's and doctoral degrees respectively.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on competition or employment.

Donna D. Sentell
Executive Director
1503#022

Greg V. Albrecht
Chief Economist
Legislative Fiscal Office

Potpourri

POTPOURRI

Department of Children and Family Services Division of Programs

Louisiana's 2015 Annual Progress and Services Report

The Department of Children and Family Services (DCFS) announces opportunities for public review of the state's 2015 annual progress and services report (APSR). The APSR is a report on the achievement of goals and objectives and/or outcomes for year one of the 2015-2019 child and family services plan (CFSP). This plan addresses the use of title IV-B, subpart 1 and subpart 2, Title IV-E Chafee Foster Care Independence Program (CFCIP), educational and training vouchers (ETV), and Child Abuse Prevention and Treatment Act (CAPTA) funds and serves as the applications for additional funds from these federal sources.

Louisiana, through the DCFS, provides services that include child abuse prevention, child protective services, family services, foster care, adoption and the youth transition services. The department will use its allotted funds provided under the Social Security Act, title IV-B, subpart 1, entitled the Stephanie Tubbs Jones Child Welfare Services Program, to provide child welfare services to prevent child abuse and neglect, to prevent foster care placement, to reunite families, to arrange adoptions, and to ensure adequate foster care. Title IV-B, subpart 2, promoting safe and stable families, funds services to support families and prevent the need for foster care. The CFCIP funds services to assist foster children 15 years of age and older who are likely to remain in foster care until 18 years of age. Former foster care recipients who are 18 years of age who have aged out of foster care, and those who were adopted or entered guardianship at age 16 years of age or older, are also eligible for services. The services include basic living skills training and education and employment opportunities. The CAPTA funding is used to complement and support the overall mission of child welfare with emphasis on developing, strengthening, and carrying out child abuse and neglect prevention and treatment programs.

The DCFS is encouraging public participation in the planning of services and the writing of this document. The report can be found for review on the internet under <http://www.dss.state.la.us/index.cfm?md=pagebuilder&tmp=home&pid=132> then the 2014 APSR link. Inquiries and comments on the plan may be submitted in writing to the DCFS, Attention: Child Welfare Administrator, P.O. Box 3318, Baton Rouge, LA 70821. The deadline for receipt of written comments is May 6, 2015 at 4 p.m.

Public Hearing

All interested persons will have the opportunity to provide comments and/or recommendations on the plan, orally or in writing, at a public hearing scheduled for May 6, 2015 at

10:30 a.m. in room 1-129 of the Iberville Building located at 627 North Fourth Street, Baton Rouge, LA.

Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (voice and TDD).

Suzy Sonnier
Secretary

1503#030

POTPOURRI

Department of Children and Family Services Division of Programs

Social Services Block Grant Intended Use Report

The Department of Children and Family Services (DCFS) announces opportunities for public review of the state's pre-expenditure report on intended uses of social services block grant (SSBG) funds for the state fiscal year (SFY) beginning July 1, 2015, and ending June 30, 2016. The proposed SFY 2015-2016 SSBG intended use report has been developed in compliance with the requirements of section 2004 of the Social Security Act (SSA), as amended and includes information on the types of activities to be supported and the categories or characteristics of individuals to be served through use of the state's allocation of SSBG funds. Section 2004 of the Social Security Act (SSA) further requires that the SSBG pre-expenditure report shall be "made public within the state in such manner as to facilitate comment by any person." The DCFS, as the designated state department, will continue to administer programs funded under the SSBG in accordance with applicable statutory requirements and federal regulations. The DCFS will be responsible for provision of social services, by direct delivery and vendor purchase, through use of SFY 2015-2016 SSBG expenditures for adoption, child protection, family services, and foster care/residential care services.

Louisiana, through DCFS, will utilize its allotted funds to provide comprehensive social services on behalf of children and families in fulfillment of legislative mandates for child protection and child welfare programs. These mandated services, and certain other essential social services, are provided without regard to income (WRI) to individuals in need. Individuals to be served also include low-income persons as defined in the intended use report who meet eligibility criteria for services provided through SSBG funding.

Services designated for provision through SSBG funding for SFY 2015-2016 are:

A. adoption (pre-placement to termination of parental rights);

B. child protective services including assessment, evaluation, social work intervention, shelter care, counseling and referrals for child abuse/neglect reports;

C. family services (social work intervention subsequent to validation of a report of child abuse/neglect, counseling to high risk groups);

D. foster care/residential care services (foster, residential care, and treatment on a 24-hour basis).

Definitions for the proposed services are set forth in the intended use report.

Persons eligible for SSBG funded services include:

A. persons WRI, who are in need of adoption services, child protection, family services, and foster care/residential services;

B. individuals WRI who are recipients of Title IV-E adoption assistance;

C. recipients of supplemental security income (SSI) and recipients of temporary assistance for needy families (TANF) and those persons whose needs were taken into account in determining the needs of TANF recipients;

D. low-income persons (income eligible) whose gross monthly income is not more than 125 percent of the poverty level. A family of four with gross monthly income of not more than \$2020 would qualify as income eligible for services;

E. persons receiving Title XIX (Medicaid) benefits and certain Medicaid applicants identified in the proposed plan as eligible groups.

Post expenditure reports for the SSBG program for SFY 2013-2014 are included in the SSBG Intended Use Report for SFY 2015-2016. Free copies are available by telephone request to (225) 341-7319 or by writing to the Administrator, Child Welfare Section, P.O. Box 3318, Baton Rouge, LA 70821. The report is available for public review online at: <http://www.dss.state.la.us/index.cfm?md=pagebuilder&tmp=home&pid=131>, then select the 2014-2015 SSBG link. Inquiries and comments on the plan may be submitted in writing to the DCFS, Attention Administrator, P.O. Box 3318, Baton Rouge, LA 70821. The deadline for receipt of written comments is May 6, 2015 at 4 p.m.

Public Hearing

All interested persons will have the opportunity to provide comments and/or recommendations on the plan, orally or in writing, at a public hearing scheduled for May 6, 2015 at 10 a.m. in room 1-129 of the Iberville Building located at 627 North Fourth Street, Baton Rouge, LA. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (voice and TDD).

Suzy Sonnier
Secretary

1503#031

POTPOURRI

**Office of the Governor
Coastal Protection and Restoration Authority**

Proposed Policies for Administering Grants Governing the State's RESTORE Act Center of Excellence

Invitation to Comment: The Coastal Protection and Restoration Authority (CPRA) seeks public review and comment on the draft policies for grants it will issue to Center of Excellence subrecipients under the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012 (RESTORE Act).

Obtaining Documents: A copy of the draft policies for grants for the RESTORE Act Center of Excellence subrecipients is available at <http://coastal.la.gov/coe>.

Submitting Comments: Written comments on the draft policies for grants for the RESTORE Act Center of Excellence subrecipients may be submitted via email to coastal@la.gov, or mail to CPRA, Attn: Jenny Kurz, P.O. Box 44027, Baton Rouge, LA 70804.

Comments Due Date: CPRA will consider public comments received in writing on or before Friday, April 17, 2015.

Chip Kline
Director

1503#017

POTPOURRI

**Department of Health and Hospitals
Bureau of Health Services Financing**

Substantive Changes and Public Hearing Notification
Adult Residential Care Providers—Licensing Standards
(LAC 48:I.Chapters 68)

In accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Bureau of Health Services Financing published a Notice of Intent in the November 20, 2014 edition of the *Louisiana Register* (LR 40:2350-2384) to repeal and replace LAC 48:I.Chapter 68, and to repeal LAC 48:I.Chapter 88. This Notice of Intent proposed to repeal and replace the provisions governing the licensing standards for adult residential care providers and adult residential care homes in order to incorporate these provisions under a single comprehensive Rule in the *Louisiana Administrative Code*. Therefore, the provisions of LAC 48:I.Chapter 88 would be repealed in its entirety and all of the provisions governing the licensing standards for adult residential care providers will be repromulgated under LAC 48:I.Chapter 68.

The department conducted a public hearing on this Notice of Intent on December 30, 2014 to solicit comments and testimony on the proposed Rule. As a result of the comments received, the department proposes to revise the Notice of Intent to clarify these provisions, and to incorporate an effective date of August 15, 2015 for implementation of these licensing standards. Prior to August 15, 2015, ARCP facilities shall adhere to the current licensing provisions currently in place.

Taken together, all of these proposed revisions will closely align the proposed Rule with the department's original intent and the concerns brought forth during the comment period for the Notice of Intent as originally published. No fiscal or economic impact will result from the amendments proposed in this notice.

Title 48

PUBLIC HEALTH—GENERAL

Part I. Administration

Subpart 3. Licensing

Chapter 68. Adult Residential Care Providers

Subchapter A. General Provisions

§6801. Introduction

A. These rules and regulations contain the minimum licensure standards for adult residential care providers (ARCPs), pursuant to R.S. 40:2166.1-2166.8, and shall become effective on August 15, 2015.

B. - G. ...

H. All currently licensed adult residential care facilities shall be required to apply for an ARCP license at the time of renewal of their current license.

1. Upon approval of the application for renewal of licensure, an existing adult residential care (ARC) provider shall receive a new ARCP license with its level of service, pursuant to R.S. 40:2166.5 (Example: ARCP level 1-personal care homes; ARCP level 2-shelter care homes; ARCP level 3-assisted living facilities; ARCP level 4-adult residential care provider.)

2. An existing ARC provider shall be required to submit to the department a written attestation which certifies that the ARC provider is, and/or shall be in compliance with these provisions by August 15, 2015.

3. If an existing ARC provider is electing to begin providing medication administration after August 15, 2015, the ARC provider shall be required to submit to the department a written attestation which certifies that the licensing requirements to provide such services have been met.

4. Failure of an existing ARC provider to submit the required attestation(s) shall be grounds for either denial of license or revocation of licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

Subchapter C. Residency Criteria, Person-Centered

Service Plans, and Residency Agreements

§6833. Pre-Residency and Continued Residency

A. - G.4. ...

5. The residency agreement shall provide a process for involuntary termination of the residency agreement that includes, at a minimum, the following:

a. written notice of any adverse action for violation(s) of the terms of the residency agreement that includes the following:

i. ...

ii. the notice shall allow a minimum of 10 calendar days for resident's corrective action.

b. - b.iii. Repealed

6. ...

7. Repealed.

a. A request for appeal shall be made within 30 calendar days of receipt of the written notice and the hearing shall be conducted by the DAL in accordance with the Administrative Procedure Act.

H. - H.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§6835. Person-Centered Service Plan

A. - D. ...

E. All plans, reviews and updates shall be signed by the resident or the resident's representative, if applicable, and the ARCP staff. If the resident's PCSP includes staff administration of medication or intermittent nursing services, a registered nurse shall also sign the plans, reviews and updates.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§6837. Termination of Residency Agreements

A. - B.1.d. ...

e. the resident or resident's representative has failed to pay or have paid after timely notice in accordance with the residency agreement for a resident's stay at the ARCP; or

f. ...

2. Involuntary Termination Process

a. ...

b. The notice shall be written in a language and in a manner that the resident and the resident's representative, if applicable, understand.

c. ...

d. The written notice shall contain:

i. ...

ii. the right to formally appeal the involuntary termination of the residency agreement to the DAL; and

iii. contact information for the state and local long-term care ombudsman and for the DAL.

3. The resident and/or the resident's representative, if applicable, shall have the right to dispute any involuntary termination of the residency agreement in accordance with §6833.G.5-6.

4. The involuntary termination of the residency agreement shall be suspended until a final determination is made by the DAL.

a. - b. Repealed.

5. ...

C. - C.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

Subchapter D. Adult Residential Care Provider Services
§6843. Medication Administration

A. - C.3.e.vii. ...

viii. All medication regimes and administration charting shall be reviewed by a licensed RN at least monthly to:

(a). - F.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

Subchapter E. Resident Protection

§6855. Resident Rights

A. - A.22. ...

23. be informed of how to lodge a complaint with the Health Standards Section, the Office of Civil Rights, the Americans with Disabilities Act, the Office of the State Ombudsman, and the Advocacy Center. Contact information including telephone numbers and addresses for these entities shall be posted in a prominent location which is easily accessible to residents; and

24. have the right to privacy in his/her apartment or room(s), including the right to have:

a. a closed apartment or room door(s); and

b. the ARCP personnel knock before entering the apartment or room(s) and not enter without the resident's consent, except in case of an emergency or unless medically contraindicated.

25. - 25.b. Repealed.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

Subchapter F. Requirements Related to Staff, Record-Keeping and Incident Reports

§6865. Staffing Requirements

A. - A.1. ...

a. During periods of temporary absence of the director, there shall be a responsible staff person designated to be in charge 24 hours per day, seven days per week that has the knowledge and responsibility to handle any situation that may occur.

b. The director shall be at least 21 years of age and have the responsibility and authority to carry out the policies of the provider.

c. Director Qualifications

i. For levels 1 and 2, the director shall meet one of the following criteria upon date of hire:

(a). have at least an associate's degree from an accredited college plus one year of experience in the fields of health, social services, geriatrics, management or administration; or

(b). in lieu of an associate's degree from an accredited college three years of experience in health, social services, geriatrics, management, administration; or

(c). a bachelor's degree in geriatrics, social services, nursing, health care administration or related field.

ii. For levels 3 and 4, the director shall meet one of the following criteria upon date of hire:

(a). a bachelor's degree plus two years of administrative experience in the fields of health, social services, or geriatrics;

(b). in lieu of a bachelor's degree, six years of administrative experience in health, social services, or geriatrics;

(c). a master's degree in geriatrics, health care administration, or in a human service related field; or

(d). be a licensed nursing facility administrator.

iii. Additionally, for level 4 ARCPs the director shall have successfully completed an adult residential care/assisted living director certification/training program consisting of, at a minimum, 12 hours of training that has been approved by any one of the following organizations:

(a). Louisiana Board of Examiners of Nursing Facility Administrators;

(b). Louisiana Assisted Living Association (LALA);

(c). LeadingAge Gulf States;

(d). Louisiana Nursing Home Association (LNHA); or

(e). any of the national assisted living associations, including the:

(i). National Center for Assisted Living (NCAL);

(ii). Assisted Living Federation of America (ALFA); or

(iii). LeadingAge.

iv. Training shall begin within 6 months and completed within 12 months of being appointed director.

v. Two years of experience as an assisted living director may be substituted in lieu of the certification requirements.

vi. Documentation of the director's qualifications shall be maintained on file at the ARCP.

d. - d.vi. Repealed.

A.2. - B.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

Subchapter H. Physical Environment

§6885. General Requirements and Authority

A. - B. ...

C. Design Criteria. The project shall be designed in accordance with the following criteria:

1. ...

2. Part XIV (Plumbing) of the *Sanitary Code* (LAC 51), state of Louisiana; and

3. the current department licensing regulations for adult residential care providers.

4. Repealed.

D. - P. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

Public Comments

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821 or by email to MedicaidPolicy@la.gov. Ms. Castello is responsible for responding to inquiries regarding these substantive amendments to the proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on these substantive changes to the proposed Rule is scheduled for Wednesday, April 29, 2015 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Kathy H. Kliebert
Secretary

1503#051

POTPOURRI

Department of Natural Resources Office of Conservation

Orphaned Oilfield Sites

Office of Conservation records indicate that the oilfield sites listed in the table below have met the requirements as set forth by section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared orphaned oilfield sites.

Operator	Field	District	Well Name	Well Number	Serial Number
James M. McLemore	Logansport	S	L.B. Adams Estate	001	63377
William H. Abington et al	Grand Cane, North	S	Abington et al	001	131606

James H. Welsh
Commissioner

1503#011

POTPOURRI

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Public Hearing—Substantive Changes to Port Eads Possession Limit (LAC 76:VII.381)

The Wildlife and Fisheries Commission published a Notice of Intent to promulgate rules increasing the possession limit on the water for recreational saltwater finfish landed by individuals lodging at the Port Eads Marina facility in the June 20, 2014 edition of the *Louisiana Register* (LR Vol. 40, No. 06). After a thorough review of the public comments, the Wildlife and Fisheries Commission published a Potpourri in the August 20, 2014 edition of the *Louisiana Register* (LR Vol. 40, No. 08) that made three substantive changes to the initial Notice of Intent: (1) extending the expanded possession limit for saltwater finfish to those individuals who dock at the Port Eads Marina and lodge on their vessels; (2) removing the requirement that Wildlife and Fisheries personnel maintain a perpetual presence at the Port Eads Marina; and (3) requiring the department to provide an annual review of the program to

the commission. Now, the Wildlife and Fisheries Commission proposes a second set of substantive changes: (1) to clarify that the Rule only applies to fish transported in Louisiana territorial waters to land-based facilities located within the state; and (2) To remove the ability for the secretary to designate an individual to inspect and certify the catch, other than an LDWF employee or agent.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic life

Chapter 3. Saltwater Sport and Commercial Fishery §381. Possession Limits for Saltwater Recreational Finfish Landed at Port Eads Marina

A. Purpose. The Wildlife and Fisheries Commission recognizes that the Port Eads Marina in Plaquemines Parish is a remote fishing destination, only accessible by water, and that recreational fishermen may fish out of that facility for several consecutive days. In order to transport fish from the remote Port Eads Marina facility back to a location accessible by land, a recreational fisherman may have a need to possess a limit on the water greater than what is allowed by general statewide possession limits for saltwater recreational finfish.

B. Possession Limit. Notwithstanding possession limits established elsewhere in this Chapter, for the purpose of transporting fish in Louisiana territorial waters to a land-based facility located within the state, the possession limit for saltwater finfish caught recreationally in Louisiana territorial waters or in the adjacent federal exclusive economic zone and landed at Port Eads Marina shall be equal to the daily take limit for the number of consecutive days, up to three times the daily creel limit, that a fisherman has been lodging at the Port Eads Marina facility, provided the fisherman is in compliance with the following requirements.

1. The fisherman holds and is in possession of all current recreational fishing licenses required.

2. The fisherman is in possession of and can provide a lodge receipt or slip rental receipt issued by the Port Eads Marina facility that demonstrates, to the satisfaction of the department, the number of consecutive days that the fisherman has been lodging or docking at the Port Eads Marina facility.

3. Upon landing his or her daily catch at the Port Eads Marina, the fisherman shall notify the Wildlife and Fisheries employee or agent on duty at the facility, and provide his or her catch for inspection and certification that the species, size and daily creel are within legal limits.

a. To maximize the efficiency and productivity of Wildlife and Fisheries staff, the Secretary may, at his discretion, or upon request of the operator of the Port Eads Marina facility provide on-duty personnel at the facility. The request for LDWF personnel to be made available shall be made no later than 72 hours in advance of when their presence is requested at the facility.

4. The fish are kept in separate bags for each daily take limit. The bags are marked with the date fish were taken, the species and number of fish contained in the bag, and the name and recreational fishing license number of the

person taking the fish. The contents of the bags have been certified by the Wildlife and Fisheries employee or agent on duty at the facility.

5. The fisherman is only in possession of his or her fish and shall not transport fish taken by another person back to the boat landing.

6. No person aboard the vessel may be engaged in or actively fishing.

C. The commission shall review the efficacy of the possession limit on an annual basis beginning one year from the date the rule becomes final.

AUTHORITY NOTE: Promulgated in accordance R.S. 56:6(25)(a), R.S. 56:325.1, and R.S. 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 41:

Public Hearing

A public hearing will be held on April 21, 2015, at 9:30 a.m. in the fourth floor conference room (room 459), at the Louisiana Department of Wildlife and Fisheries Headquarters Bldg., 2000 Quail Dr., Baton Rouge, LA 70808.

Pat Manuel
Chairman

1503#020

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